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[COMMITTEE PRINT]

MARKUP OF S. 1439: EXPORT REORGANIZATION ACT OF 1976

MEETING

BEFORE THE

JOINT COMMITTEE ON ATOMIC ENERGY CONGRESS OF THE UNITED STATES

NINETY-FOURTH CONGRESS

SECOND SESSION

AUGUST 26 AND SEPTEMBER 14, 1976

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MARKUP OF S. 1439: EXPORT REORGANIZATION ACT OF 1976

THURSDAY, AUGUST 26, 1976

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C.

The Joint Committee met at 1:45 p.m., pursuant to notice, in room S–407, the Capitol, Senator John O. Pastore (chairman of the Joint Committee) presiding.

Present: Senators Pastore, Jackson, Symington, Baker, and Case; and Representatives Price, Young, Roncalio, McCormack, Brown, Anderson, Lujan, and Horton.

Also present: George Murphy, executive director; James B. Graham, assistant director; William C. Parler, committee counsel; and James K. Asselstine, assistant counsel.

OPENING REMARKS OF SENATOR PASTORE

Chairman PASTORE. First of all, I want to thank the members for appearing in such large numbers. This is rather extraordinary and unusual. I am very happy for that because the requirement is that when we report out any legislation we have to do so by way of a quorum. I am glad to see that we do have a quorum here.

Gentlemen, the matter before us today is a very simple one to explain. A bill was reported out by the Government Operations Committee of the Senate known as S. 1439, which was an amendment that was entitled the "Export Reorganization Act of 1976," but in fact it encroached to a very large extent on the function and jurisdiction of this committee as provided for by law. But that was not an important element for the simple reason that the members of this committee are not subject to that kind of sensitivity, especially when it means that we are dealing with a public interest. But there seems to be a sensitivity on the part of some of the members of the Senate Government Operations Committee who are quite anxious that whatever legislation passes bears the mark of that committee insofar as the title is concerned. But that is not very important to me.

The fact still remains that S. 1439 as introduced in the Government Operations Committee and as reported out by that committee is a bill that was strenuously opposed by all the agencies of the Government. I think in that we are in accord. So when we held our hearings here we did it in sort of an informal way, but it was a public hearing

whereby we brought in all of the heads of the various agencies to find out if we couldn't hammer out something that was satisfactory here.[1]

We are on the threshold of adjournment. I hope sine die. I am now in the twilight of my tenure. But we instructed the staffs to get together and put something together that might be acceptable. We worked out a plan and we reported it to the committee. We are ready to report it out. Then some objection was raised by the members of the Government Operations Committee to the effect that there was one section in there that had to do with the criteria which specified after 18 months what the criteria had to be in any of these exports, plus the fact it gave the President of the United States the power by Executive order to make changes with reference to the criteria, if he saw fit.

If he did make those changes, those changes would have to be referred back to the Congress and the Congress would have the right of veto.

Now, frankly, I wouldn't want a President who would be stupid enough to sign that kind of a bill. I never heard of the Congress vetoing that kind of action. I never heard of the Congress vetoing the actions of the President of the United States, only by way of overriding a veto already instituted by the President.

The fact still remains that we talked about this to some extent, and this is the agreement that we reached, and I hope it would be acceptable to this group.

The agreement that we reached, I am going to have Bill Parler explain this. We would still state the criteria in section 15, still make it subject to the President making some modifications or extensions, if he saw fit, but instead of giving to the Congress the right of veto, the President would only be required to notify the Congress, the appropriate committees of Congress, exactly what he had done. I think that would be constitutional.

That is where the matter stands today. So the question that we have to decide, because we have up to the 31st of August to do something about the bill, S. 1439, that was referred to us, my suggestion would be that we would have to report that out unfavorably and that we would report our compromise as a clean bill.

Now I would like to hear from Mr. Parler, Joint Committee counsel.

Did I explain that correctly?

Mr. PARLER. Yes.

Chairman PASTORE. Do you want to add anything or elaborate on it as to what the criteria is and all that sort of thing? Will you do that for us?

Mr. PARLER. There are two sections in the bill that deal with criteria. The section that the chairman has been talking about is section 15 on page 18 of the draft that is before you.

Representative PRICE. Will you let us know what you are working from? You are not working from S. 1439?

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[1] S. 1439: Export Reorganization Act of 1976, hearings before the Joint Committee on Atomic Energy, June 22, 1976 (printed as Vol. I; and July 28 and August 31, 1976, Vol. II.

Mr. PARLER. I am working from the mimeographed copy of the bill, which is the identical version of the printed bill.

Representative MCCORMACK. This is the one that says "S. 3770 and H.R. 15273, identical" on the top line?

Mr. PARLER. That is correct.

Representative MCCORMACK. This is now the version of the bill that is before this committee; is that correct?

Mr. PARLER. That is the version of the substitute bill; yes.

Representative MCCORMACK. That is not the same as we received in our offices 2 days ago?

Chairman PASTORE. That is right. I just got through explaining.

Mr. MURPHY. That is correct, it is not. As the chairman explained, the new one has a substitute that Mr. Parler, the committee counsel, is about to elaborate on.

Representative PRICE. This is a revision of that one?

Mr. MURPHY. Yes, sir.

Chairman PASTORE. Only with regard to one element that I just explained. It is the same bill that was given to you several days ago excepting that once we introduced it into the Senate the members of the Government Operations Committee raised some objection as to this section that we are talking about now, and this is what Mr. Parler is going to explain.

Mr. PARLER. The section that we are talking about now in the version of the bill that was circulated to all members on August 24 was in terms of negotiating objectives to the President, the negotiating objectives that he should follow to try to achieve international agreement with the nuclear supplier countries.

The bill that is before you now, on page 18, includes those negotiating objectives as licensing criteria which shall become effective 18 months after the date of enactment of this act, unless the President otherwise decides to waive those objectives.

Now the licensing criteria in section 15 are additional criteria to those that are imposed in a new section 112 that would be added to the Atomic Energy Act. That starts out on page 14 of the draft before you.

The difference between the two sets of criteria, that is, the set that would become applicable immediately upon enactment of the act——

Representative ANDERSON. Section 5?

Mr. PARLER. The new section 112 starts on page 14.

Representative ANDERSON. That is the second section.

Mr. PARLER. That is the first set of criteria that is on page 14.

Representative HORTON. That is section 112, right?

Mr. PARLER. That is right.

The 18 months criteria on page 18——

Representative ANDERSON. They are all in one section?

Mr. PARLER. Yes.

Chairman PASTORE. Why don't you read it, Bill.

Gentlemen, this is what it is. Effective 18 months after the date of enactment of this act——

Representative MCCORMACK. Are you on page 14?

Chairman PASTORE. Page 18, right at the top.

Except as provided in subsection (b), paragraphs 1 through 6 of section 112(a) of the Atomic Energy Act of 1954, as amended, are amended to read as follows:

And this is the criteria we are talking about—

(1) Assurances shall be received from nonnuclear weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that State.

That is the first one.

(2) Assurances shall be received from nonnuclear weapon states that no imported or indigenously developed material, facility, technology, component or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, faci'ity, technology, component or substance will be used for nuclear explosive devices for any purpose or for research or development of nuclear explosive devices for any purpose.

This is like the India case on the heavy water.

(3) Assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities which are sufficient to prevent theft or sabotage.

(4) Assurances shall be received that no imported or indigenously developed material, facility, technology, component or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component or substance, shall be transferred to the jurisdiction of any other nation or group of nations unless such nation or group of nations agree to apply the controls set forth in this subsection.

(5) Assurances shall be received from nonnuclear weapon states that—

And it goes right on and somebody else will have to read it.

There you are gentlemen.

Representative ANDERSON. May I ask a question at this point, Mr. Chairman?

Chairman PASTORE. Yes.

Representative ANDERSON. With respect to the first subparagraph that you read under section 15(a), I take it that this is not limited to American exports? The language is all embracive and if a country, for example, were receiving not only reactors or components or fuel from the United States but also receiving exports of that or a similar nature from other countries, that they would be covered under this assurance as well?

Chairman PASTORE. Mr. Parler, what do you have to say?

Mr. PARLER. That is correct. This is one of the differences I was trying to explain between the criteria that would become applicable 18 months after the date of enactment and the criteria which would become effective upon enactment. That is one major difference.

There is one other major difference; 18 months after the date of enactment, all nonnuclear-weapons countries would have to forsake the development of sensitive nuclear technology capability on a national basis. Such capability could only be furnished under international management, auspices, and effective international control. Sensitive nuclear technology means, for this purpose, technology relating to the production of enriched uranium or for the reprocessing of irradiated reactor fuel.

Those are the two major differences between the two sets of criteria.

Representative ANDERSON. May I ask another question at this point?

Chairman PASTORE. You may pursue this at any length.

Representative Anderson. Thank you. There is no international reprocessing facility anywhere in the world of which I am aware at the present time. In other words, we are imposing then by this legislation a condition on a recipient country that is incapable, at least as of now, of being fulfilled, are we not?

Mr. Parler. That is my understanding, Mr. Anderson, and there are two reasons, as I understand them, for this approach. The first premise is that putting the augmented criteria to become effective after 18 months into the act as licensing criteria will result in the President and the Secretary of State seeking even more aggressively to obtain international agreement.

I think the second premise is that such international agreement is likely to be obtained because of the major share of enrichment capacity which the United States now has.

The other supplier nations as well as the other countries of the world which look to the United States for uranium enrichment capacity will have no choice but to fall in line and agree.

Those are the premises, sir.

Representative Anderson. I happen to be one, Mr. Chairman, who favors very much the creation of an international reprocessing facility. Indeed, I have even written a letter some months ago, to the White House urging that such; but I do have to muse a little bit about the possibility of seeing that all come to pass in 18 months, and I wonder at the wisdom, therefore, of inserting a requirement that is certainly based on faith and hope and charity and a lot of other things. I just think this is a little hard for me to grasp.

I don't want to belabor the point but I went over the summary that the staff provided us with S. 3770 and H.R. 15273[1] and I note on page 2 and subparagraph (c) and (d), for example, that it reads that the initiatives which the United States shall institute immediately to endeavor in concert—I underline those words—in concert with other nations to strengthen the effectiveness of the IAEA, and so on, initiatives which the United States shall immediately institute with other nations to achieve international agreement on security standards and so on.

When I read this section 15(a) that Mr. Parler has been talking about that begins on page 18, it seemed to me that rather than providing that they be effective 18 months after the enactment of the act, that we ought to adopt the same philosophy of these other parts of the bill to which I just referred and provide that they would come into effect when there was a binding international agreement with other supplier nations, and that then we charge the administration and the executive branch with the solemn responsibility of getting together, instituting immediately the effort, in concert with other nations, to achieve agreement internationally on criteria of this kind, so not just the United States but all other countries dealing in nuclear components and nuclear technology and so on, would be bound by those criteria.

Chairman Pastore. But doesn't this go a step further, Mr. Parler, with regard to licenses granted for American exports to foreign coun-

[1] See app. 2, p. 252.

tries? After 18 months these will be the predicates of the requirements upon which a license can or cannot be issued of American exports. Isn't that true?

Mr. PARLER. That is true, sir, but——

Chairman PASTORE. In other words, we will have, before we could grant a license, let us say, to "X" country, we would have to have an assurance from that country that they come within the purview of these sections that we have just talked about?

Mr. PARLER. That is correct.

Chairman PASTORE. Otherwise the license cannot be issued?

Mr. PARLER. That is correct.

Chairman PASTORE. Unless the President of the United States modifies any one of these requirements and so notifies the Congress; is that correct?

Mr. PARLER. Yes.

Chairman PASTORE. Gentlemen, you see what we are up against? It is a terrible pragmatic problem. This bill, the original bill S. 1439, was reported out on the floor of the Senate and it was referred to this committee and to the Foreign Relations Committee because it falls within the jurisdiction of their committees. Now we are up against the fact that under the order of the Senate, we have to report this bill back, this S. 1439, we have to report that back by August 31. That bill I will tell you very frankly goes much, much too far; and even if we expended any time on it, it would be vetoed. We were told very distinctly it would be vetoed. The big question is on the alternative.

If we don't agree on some alternative apart from S. 1439, the only thing that will be at our disposal is the ordering out of the bill that was referred to us, you see, with an unfavorable recommendation.

Now the next question is what will happen on the floor of the Senate once that happens unless we have an alternative? And that is what this is all about.

So the point that you raised, John, is a good point but I don't think we have the time between now and August 31 to work that all out.

Senator SYMINGTON. Would the Chair yield?

In addition to which Senator Pastore was very firm with the Government Operations Committee that the President should not have any congressional restraint so long as he declared whatever he did after 18 months was in the national interest. That is part of the bill.

So that there is a little theory in the 18-month position which there was not before this compromise was agreed on, and otherwise our chairman said he would not go for it.

Chairman PASTORE. You see, the argument that is being made, and it is a good argument being made by them, this is rather strict, no question at all about it, but they feel that if we bind ourselves in such a way that we recognize the problem of proliferation and the safeguards that are connected with theft, sabotage, and what have you, that that might be a basis for other nations to come about and cooperate with us in this regard and make it a universal method of control.

Now if they didn't come along with us on an international basis then the President would have this authority at his disposal to act in the national interest.

In other words, if these restrictions were such that we would lose competition in the market, because other people would take advantage of the fact that we were tying our hands with strict rules and yet at the same time they were at liberty to act any way they wanted to, the President would still have the right under this bill to make the modification.

Representative ANDERSON. If I may, there is one other constraint here that puts us in a very difficult position as a committee, surely, and that is, as the chairman knows, we have been promised, I think by the middle of September, a report from this interagency task force set up under Robert Fri, Deputy Administrator of ERDA, who has been gathering in the opinions, as I understand it, of all the various agencies that deal with this problem within the executive branch. That ought to be a very useful report, I would think, to factor into our deliberations and evolving the kind of policy guidelines that we want to put into basic legislation, which is really of fundamental importance to the country and indeed to the whole world.

Chairman PASTORE. You can do that in the House by amending the bill which would be before you.

Representative ANDERSON. I realize that.

Chairman PASTORE. If we reported a bill out. My problem is what do I do about reporting unfavorably a bill reported here without having an alternative to it? And in this day and age, with the emotions being what they are, I am afraid S. 1439 in that event would have a chance of passing unless this committee stood up and said we have something that is better.

Representative MCCORMACK. I want to sympathize very much with the problem you are expressing but I am curious to know, wouldn't it be possible to request some additional time from the Senate for consideration by this committee of the entire matter, particularly in view of the study that is being carried out by the administration under the direction of Bob Fri?

I am sure that the chairman is sympathetic to the fact that we as members of the committee, particularly on the House side, have not been involved in this matter and we received one version of this bill the night before last and another version today, and giving all due credit and all respect and acknowledgement of the sincerity of the chairman and everybody else involved, still the Members of the House haven't had any opportunity to study or consider or debate this bill or to understand what its implications may be.

I am sure the chairman is aware of the letter.[1] I don't know how many other members received it. I requested a copy of the analysis by ERDA on this bill, and this is dated today, and I take it that he is referring to the modifications that have been made since the previous draft that we received. And he is saying "in our judgment, however, the August 24 draft bill," which I presume is the draft that is before us:

> Does not represent a significant improvement over the earlier draft since it fails to meet the majority of the concerns which we have previously expressed. In particular, the bill would still appear to establish increasingly rigid export licensing criteria, which, if enacted, would result in a de facto moratorium on U.S. exports.

[1] Letter dated Aug. 26, 1976, from Robert C. Seamans, Jr., ERDA Administrator to Senator Pastore. See app. 3, p. 255.

Then he said:

Imposition of the imposed criteria in section 14 of the August 24 draft—which would be effective immediately—as statutory licensing conditions would make it impossible to license the export of the nuclear reactor or fuel under many current agreements for cooperation.

Then he talked about the various agreements, whether there would be partial or total disagreement, but points out this would infringe upon agreements with Canada, the International Atomic Energy Agency and Euratom, and then he says another immediately effective criteria concerning replicated facilities would not be met in any of our current or proposed new agreements for cooperation.

Then he says export criteria which substantially hinder our ability to act as a reliable nuclear supplier will serve to call into question the fundamental basis of the nonproliferation treaty.

I think we all certainly are aware of the fact that the handle that we have on nonproliferation is the ability to supply nuclear fuel, and if this bill as Administrator Seamans says in his previous letter, would impose an effective moratorium on nuclear exports, at the same time it seems to me it weakens our position with respect to any ability to impose any sort of cooperation or to obtain any sort of cooperation as far as nuclear nonproliferation is concerned.

I wonder, therefore, the question immediately raised is whether or not the bill is not self-defeating as it is drafted.

I don't know what the answers to these questions are. The question is raised, I put it that way. My point is I think everyone of us wants to report out a bill, but the fact is we are dealing with something here that is immensely complicated, on which the administration is presently doing a study, which will be available in about 2 weeks, that we have a written letter today coming to us dated today saying this would be extremely damaging to the position of the United States and call into question our relationships with the other nations. And quite frankly, Mr. Chairman, I don't see how I can vote on legislation that we simply haven't had an opportunity to study and to have hearings on, and I would like to most sincerely suggest that the committee request additional time as is necessary to hear the administration's report, to have in depth hearings, to understand all the various points that are presented by the involved agencies and individuals, public or private, and to then try to resolve this by at least understanding what the options are and what we can do.

We want to put out a responsible bill but I must say I am sure that I, in spite of my efforts to get a handle on this with everything else we are doing, find myself just hopelessly at a loss to treat it intelligently and responsibly at this time.

Chairman PASTORE. Let me answer you this way. No. 1, on the extension of time, I was already able to get that extension once, up to August 31, and that was given to me very reluctantly. The only way I can get you a new extension is by unanimous consent, and I can't get it.

The thing I am confronted with, if we follow your plan, is to report out the bill before us, S. 1439, unfavorably, and let us take our chances on what happens.

Now, I don't care what you gentlemen decide to do in the House because that is your prerogative, and I think you have a perfect right

to study the bill and understand all of its parts before you actually cast a vote. But, you see, S. 1439 is not before the House, S. 1439 is just before the Senate.

Now, I suppose the answer here would be that under the circumstances if you wanted more time with relation to this being reported out by this committee to the House, allow us to report out unanimously on the part of the entire Joint Committee, S. 1439, unfavorably, and allow the Senate, you see, to suggest what we can work out today as a substitute and then take it from there.

Senator BAKER. Could I say a word before we break for this rollcall vote?

I understand from Senator Symington that Secretary Kissinger will be before the Foreign Relations Committee at his own suggestion at 3 o'clock this afternoon. Now, I think that all of us would be well served to hear what Dr. Kissinger has to say. Obviously all of us aren't members of the Foreign Relations Committee. Pretty clearly I think we could attend, or some of us could. At least we would know what his statement is going to be after the 3 o'clock meeting.

Frankly, as far as I am concerned, I think I am not prepared to state any opinion on this subject until I hear what the Secretary has to say. I don't know what he has got to say. I don't know what attitude he will take. I know I want to know his point of view.

I would suggest that we postpone any action until after that 3 o'clock meeting.

Senator SYMINGTON. If the chairman will yield.

I am not sure that Dr. Kissinger made a request to come up on this particular issue. I know that we have requested him to come up a couple of times in the Foreign Relations Committee that he hasn't been able to keep the schedule as originally agreed.

The Foreign Relations Committee passed 8 to 1 the bill that Senator Pastore is presenting to us today with the two amendments that give the Foreign Relations Committee knowledge of agreements or treaties that are made. It has to go there because it is increasingly clear that there ought to be some formal agreements on this desperate effort to control nuclear proliferation. Those amendments the committee passed with one dissenting vote, which was the dissenting vote of Dr. Kissinger on the bill, and we were going to hear him this afternoon.

The time element being so important, at 3 o'clock we will be able to see what, if anything, he wanted to say on that, although he was coming up on some other matters.

Representative YOUNG. Mr. Chairman, I have a long-standing appointment at 2:30 which will necessitate my leaving.

I simply want to state I concur in the view that this matter ought to be postponed and I want to associate myself with the remarks made by Mr. McCormack. I, too, am not opposed to the bill but I think that I am not ready to act on it at this time.

Chairman PASTORE. We have to act on the bill that is before us, that was referred here, S. 1439. We have to do something about that. I cannot be in disobedience of the Senate. We have to fish or cut bait on S. 1439.

Representative HORTON. Mr. Chairman——

Chairman PASTORE. We all agreed that S. 1439 we are against.

Representative ANDERSON. No, Mr. Chairman——

Chairman PASTORE. What am I going to do with it? I have to report it out.

Senator SYMINGTON. I am certainly not against it.

Senator BAKER. You don't have to do it before 3 o'clock.

Chairman PASTORE. No. The point is time is running short and I don't think you can get a corporal's guard here after 3 o'clock and I know what Kissinger is going to say because he has already talked to me on the phone. He is against this provision and so is Bob Fri who speaks for the White House. They are against this provision.

Representative RONCALIO. If they are against it may I be on record as being for it?

Representative MCCORMACK. Mr. Chairman, may I suggest that this committee follow your suggestion and do report S. 1439 unfavorably but with a statement that we are forced into this position because of the constraints of time and that we would like to have an opportunity to prepare an alternate to the bill to be considered. In other words, meet the requirements set by the Senate to report back on S. 1439 and say we are reporting unfavorably and that in another 2 or 3 weeks we will prepare legislation that we will submit to the Senate.

Chairman PASTORE. Well, the only trouble with that, what if anybody gets up, like Stuart Symington, and says I move to amend S. 1439 by offering this substitute.

Representative MCCORMACK. Then it would be Senate action only.

Chairman PASTORE. What do you say is the intent of the Joint Committee?

Representative MCCORMACK. Then you can say the Joint Committee has not taken——

Chairman PASTORE. Can I say go see McCormack?

Representative MCCORMACK. Ultimately, yes.

Representative PRICE. May I say in relation to the House, I think the House Members are justified in the position they are taking because today is actually the first time we had an opportunity to see this.

Representative HORTON. Are you going to come back and have more discussion on this?

Chairman PASTORE. Let's come back.

[A brief recess was taken.]

Chairman PASTORE. All right, gentlemen, the question before you now is what is your desire on S. 1439 as referred to this committee from the Government Operations Committee?

Senator BAKER. Mr. Chairman——

Chairman PASTORE. Mr. Baker.

Senator BAKER. Mr. Chairman, I have listened carefully to not only the substance of the discussion today but to the dilemma that you described from the procedural standpoint. I think there are good points stated by our colleagues in the House with respect to their opportunities to understand and evaluate this provision. There is certainly a dilemma of major proportions in terms of the responsibility of the Joint Committee to report within a time limit to the Senate.

Now, this isn't a very happy way to dispose of an issue but I am absolutely convinced that given these factors, there isn't but one realistic way for us to dispose of the issue, and when it is in order I will move that S. 1439 be reported unfavorably.

Chairman PASTORE. Your motion is in order. Any discussion?

Senator SYMINGTON. Mr. Chairman, before we move to vote on that I would like to present to the committee with great respect the amendments to S. 1439 which were adopted by the Foreign Relations Committee and which I presented to the chairman yesterday.

[Material referred to follows:]

AMENDED VERSION OF SECTION 9 (ON PAGE 10) OF THE JOINT COMMITTEE'S SUBSTITUTE BILL

Subsection 123.d. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) Insert after the word "President," the words "and any recommendations, views and statements submitted to the President in accordance with subsection a. of this section,"; and

(b) Strike all of the language in the first sentence after the words "has been submitted to the Congress" and insert in lieu thereof following: "and referred jointly to the Joint Committee on Atomic Energy for its consideration of such matters as fall within its jurisdiction under Section 202 of this Act and to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for their consideration of all other matters and a period of sixty days has elapsed while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided, That* prior to the elapse of the first forty-five days of any such sixty-day period such committees shall submit reports to the Congress of their views and recommendations respecting the proposed agreement, and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation.

In Section 10 (on page 11) immediately after the words "the Joint Committee on Atomic Energy" insert a comma and "the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives". In such section, strike out "that Committee" and insert in lieu thereof "such committees".

In Section 17d. (on page 27) after the words "Joint Committee" insert the following: "and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate".

Senator SYMINGTON. The amendments have one basic purpose, to allow the Senate Foreign Relations Committee and the House International Relations Committee oversight of nuclear agreements for cooperation.

We are getting ourselves into a situation here where any agreement, any treaty, in the nuclear field is basically one of the most important aspects of the world development today. There is no question about that. A great scientist said to me the other day, "I wish I didn't have any children." And under these circumstances of what is happening in this nuclear field—regardless of what party runs the administration—I think the Foreign Relations Committees in both Houses should have a right of review if cooperation is in the form of a treaty or formal agreement. Otherwise you could have a situation which would be very bad from the standpoint of the understanding that those committees do review treaties and formal agreements.

Chairman PASTORE. The only thing is this, Stuart. Under the law any treaty goes to the Foreign Relations Committee, it doesn't even come to the committee. As a matter of fact, even if it has to do with

atomic energy and it is a treaty, the only interventions that we have is by way of courtesy on the part of the Foreign Relations Committee extending it to us.

Now, when you talk about formal agreements, heretofore agreements for cooperation have come before this committee and the procedures are pretty well spelled out in the law.

Now, would you say that in this particular case we can't take action in the Joint Committee until such time as we get authority from the Foreign Relations Committee?

Senator SYMINGTON. Let me go back and try to explain.

When I came out in effect pretty new from the Pentagon over into the Senate I went to the chairman of the Armed Services Committee, a very fine gentleman, and said to him:

> Leverett, I think this whole matter of nuclear energy is going to be of paramount importance shortly in the whole question of weaponry, and the Armed Services Committee literally knows nothing about it.

And he said "if you want to know my position on it, Stuart," he said, "this is so secret that I don't want to know about it, and I don't think this committee should know about the details of nuclear power."

This was 25 years ago. There has been this veil of secrecy.

In the Foreign Relations Committee at times we would get information. One of the reasons I went on that committee was to try to get more information about what we sit and discuss here today. It was difficult if not impossible to do that under the act which created the Joint Atomic Energy Committee.

Now, you have got a further dilution of whatever is going on in the executive branch by the NRC coming into the picture, which at least to some extent attenuates, divides authority with the new agency, ERDA, both agencies being created from the old Atomic Energy Commission.

Also, you have assessments such as the group with Dr. Kistiakowsky—who was President Eisenhower's No. 1 man—recently in Boston. Five scientists got together, led by Dr. Kistiakowsky, and said in their opinion nuclear war was not a possibility before the year 2000, it was a probability. These are men who understand the subject far better than I do. They are nuclear physicists.

I would hope that inasmuch as we have seen a tendency toward agreements—this certainly doesn't bear on any one administration—an agreement in effect should be a treaty. I hope that in the future as we get into this vital problem of stopping proliferation, we realize these treaty aspects. For example, we have the question of Canada's reactor and our heavy water with respect to India, we have the question of the reprocessing plant being given to Brazil. I personally asked the Secretary of State, how did you let the Germans make that deal with Brazil? His answer to me was: "We did our best to prevent it." Three days later the Chancellor of Germany said he had no criticism of the deal with Brazil from anybody at any time. That is on the record.

Now, you have the French offering a deal to the South Koreans, which I believe it is fair to say we were able to prevent—maybe—it depends on how things go. Because of a little amendment that we got into the foreign assistance bill, the State Department is saying to the

Pakistanis that unless they agreed to the terms offered by the United States they could no longer get any military or economic aid. I noticed Secretary Kissinger used this in his hopefully effective protestations to Pakistan about obtaining a complete reprocessing plant.

Now, the point that I am trying to make is—I am leaving you all pretty soon—that I hope you realize that you may not be able to make any agreement or treaty of any substance in the future, in my opinion—I bow to some of you who know more about the subject than I do—that doesn't involve the nuclear field. It has become by far the most single problem the world faces today. I think the only chance of preventing a holocaust is to have some kind of world agreement regardless of whether it embraces countries that don't agree with our ideologies, so that we have some recognition of this problem on the part of the people. Probably the best place to develop it, although it is a rather looked down on agency at this time, is the United Nations. And I think anything we can do to bring the importance of what we talk about around this table before the whole world, not just the American people, would be very important to the future of the world. And it is with that basis that I would hope that this committee, a great committee, would also allow the Foreign Relation Committees of both houses to also have the opportunity to review agreements for cooperation—because if this doesn't involve international relations, I am crazy.

Representative RONCALIO. Would you yield?

Chairman PASTORE. Will you permit me?

Representative RONCALIO. Yes.

Chairman PASTORE. You know, Senator Symington, there was one time when this Joint Committee was a most prestigious committee in the Congress. It is the only Joint Committee under the law that has the authority to be fully and currently informed on various sensitive matters, including classified information.

Originally, it was constituted to make sure that there would be civilian power over the atomic bomb, but in 1954 we amended the law in order to institute cooperative progress between industry and the Government in the development of the peaceful atom. The most important adjunct of that is the authority that we have on bilateral agreements.

If you take that away from this committee—and this amendment proposes to do precisely that—you take that away from this committee I am ready to resign, because if my only job here is going to be to make bigger and better bombs, I don't want to be on this committee.

The only hope that the atom has in the service to mankind is for peaceful use.

Now, I realize the problems that you stated, but what you are actually saying now is that this committee is incompetent to judge bilateral agreements. We have no jurisdiction over treaties. We don't want jurisdiction over treaties. But when you tell us that before this committee can report out to the floor of the Senate under the conditions laid out in section 123 of the atomic energy law—when you say that we can't do that any further, then what else is there for us to do?

Senator SYMINGTON. Both committees are involved in it.

Chairman PASTORE. You mean after we get through doing it, they do it?

Senator SYMINGTON. We both do it together.

Chairman PASTORE. How do we do it together?

Senator SYMINGTON. The reason I came on this committee is that, as a member of the Armed Services Committee and as a member of the Foreign Relations Committee, I could get no information whatever on what I began to believe was the most important single subject in the world.

This is not a legislative committee.

Chairman PASTORE. Indeed it is.

Senator SYMINGTON. In a sense. It is a joint committee.

Chairman PASTORE. It is the only joint committee that has legislative power.

Senator SYMINGTON. Then I reverse myself on that. But I found out the only way I could get information was to join this committee, and I gave up the chairmanship of a committee to come on here to learn about nuclear matters. It seems to me that we have got a problem now with the bill, S. 1439, and so forth. All I know is when you get to talking with any country in the future, about our relationships with that country, this matter of nuclear power is going to come up primarily because of the energy problem. And it seems to me that you make a sharp line if you say that the Foreign Relations Committee approves treaties but under the law everybody agrees this committee would approve the treaty. But to me an agreement in this field is infinitely more important than probably 9 out of 10 treaties in any other field.

I thought you agreed yesterday to these amendments?

Chairman PASTORE. I go along with the treaty business, but when you say a formal agreement, you are saying that agreements for cooperation, bilateral agreements, with foreign governments, would now come before this committee, have to sit here for a period of 60 days, that we have an obligation to make a decision within 30 days and report back to the Congress.

The point here is—what I am saying is that you leave us nothing else if you take away from this committee. What else is there?

Senator SYMINGTON. I am not advocating any position of relative importance of committees. I am just presenting to everybody my conviction that here is something which is vital and is related to treaty-making authority in the Foreign Relations Committee. It wasn't started in this administration or the previous administration, but there have been an awful lot of things agreed on that we have known nothing whatever about in the past, and they were done as agreements instead of treaties.

Chairman PASTORE. Then you should have amended the law.

Mr. Roncalio.

Representative RONCALIO. I have several questions, the first of which is the unique parliamentary situation.

Are we about to amend a bill we are about to disapprove and, if so, why don't we set that to one side.

Senator SYMINGTON. That is a very good question. If I may say, all I did was to present my position, and the more I presented it, the more

I realized that the House Members were right in saying perhaps we had better bypass it, if you see what I mean. But I did want to lay it on the table because I think it is going to become steadily a more important matter to the Senate and I would hope also to the House.

Chairman PASTORE. You see, Mr. Roncalio, this bill, S. 1439, was reported out favorably by the Senate Government Operations Committee. Then it was referred both to the Senate Foreign Relations Committee and to us. The Foreign Relations Committee has this bill before them, but the one that is before the Foreign Relations Committee of the Senate has been amended by the amendments proposed by Stuart Symington, but they are not in the bill that we have before us.

Senator SYMINGTON. That is why I brought it up.

Chairman PASTORE. They are not in the bill we have before us; they are in the bill before the Foreign Relations Committee.

Representative RONCALIO. I would like the record only to show that I don't think a sequential referral of an agreement to the Senate Foreign Relations Committee would so degroin this Joint Committee of any of its jurisdiction or authority that it would make it no longer a strong and effective committee. I think this committee has seen some deterioration of its jurisdiction over the past 4 or 5 years. This is a continuation of that pattern.

Representative PRICE. Do you want to see it continue?

Representative RONCALIO. I don't like to see it continue but I happen to see the substance of this matter as being quite important. An agreement for cooperation must have, I think, the approval of those committees that are in charge of foreign affairs of our Nation. That is substantive. I think that is the whole point. We have to get along with our colleagues, that is what it amounts to.

Mr. McCormack works on ERDA matters this way. You two gentlemen are saying you are leaving, but it will not be too many years before the rest of us will be leaving. There is not a dark-haired man on the committee except Senator Baker.

Representative ANDERSON. Speak for yourself, Teno.

[Laughter.]

Representative RONCALIO. I have none.

Chairman PASTORE. Let me tell you, gentlemen, you are making my decision look all the happier and the better. [Laughter.]

Representative HORTON. Mr. Chairman, just for the benefit of the Members of the House, I am not in disagreement with the procedure that has been suggested. It is a good way to resolve the problem that we have on the House side as far as the proposal that was submitted for us to look at.

I might say that if the substitute that was proposed here does get into the Senate you may have a problem. If that does get into the Senate as a substitute, with the letter of Dr. Seamans, if that is a valid objection that he has raised, then you may find, if it ever got down to the White House, that would be the basis of a strong urge for a veto even of that substitute.

But I bring up another point to advise the Members of the House that I understand that the International Relations Committee of the House has before it the Export Administration Act and this morning there was an amendment that was proposed by Mr. Zablocki to that act which was accepted, which concerns nuclear exports and cooperation.

I don't know, since I have not had a chance to analyze it, what its effect would be with regard to the subject we are now talking about, but I imagine it might impinge on that. So we may find that the House might move through with this Export Administration Act with a nuclear export and cooperation act which might bypass us, and so I just mention that for the Members of the House to be alert to make sure that doesn't happen.

Senator SYMINGTON. I don't know anything about the Zablocki setup. It is no joint movement.

Representative HORTON. I didn't mean that at all. I am just making the point there may an effort to move by the House side on this and we ought to watch it to make sure the House is going to refer the matter to the Joint Committee so we can discuss it; if we get to that point.

Senator BAKER. If you would yield for one brief minute.

As I indicated to the chairman earlier, there is a probability that if we report this bill unfavorably to the Senate that at some point either he or someone else would offer the substitute.

Now, I want it clearly understood, as the chairman understands, that in view of the objection by Mr. Fri, and apparently the objection by Secretary of State Kissinger, I reserve all my rights to decide how I finally want to modify the substitute if it in fact were presented to the Senate. Nothing is locked in as far as I am concerned in that respect by voting to report S. 1439 unfavorably. We are not committed to the support of anything, rather only just to report that bill unfavorably.

Chairman PASTORE. If I were forced to bring up an alternative I would do it according to the original draft that you received 2 days ago.

Representative HORTON. I would suggest——

Chairman PASTORE. No question about that.

Representative HORTON. Mr. Chairman, I would suggest that that is a good starting place for this committee because that is much better than the bill that is before the Senate now that we are going to disapprove. I think we ought to use that as a basis for hearings, and I would suggest we move forward very quickly because I think that is a much better approach to the subject than the bill now before the Senate. I think that would provide an opportunity for some discussion as to what this committee is doing and the concerns this committee has on this subject.

Representative MCCORMACK. Mr. Chairman, I don't want to presume to advise the Chair or the Members of the Senate, but I do think that it would be appropriate that in some manner or other the message be conveyed to the leadership and all the Members of the Senate that in rejecting S. 1439 we are at the same time informing them we would undertake hearings and attempt to prepare legislation in the very near future which we think would be acceptable not only to the committee but to everybody else.

Chairman PASTORE. Mr. McCormack, I can't do that very well. I will tell you why. I have been negotiating with these people. We had a hearing here and everybody was here when I instructed this staff to work out a compromise.

I don't know whether or not the staff has consulted with you people or whether you have made it your business to consult with them. I have been talking with these people. I am the guy being cornered every time I go on the Senate floor. And after all, gentlemen, I don't want to go there and say now we are working on legislation after we have been talking about them. I don't care whether you agree with the compromise we reached or not. That is your prerogative and I respect it. But please don't place me in the position of acting rather silly downstairs.

The point is this. All I am asking you gentlemen to do is to take action on S. 1439 and then from then on everybody is on his own. The act will speak for itself. If we amended it in the Senate, and we pass it in the Senate, it comes to the House; and if you fellows want to modify it or kill it that is entirely up to you.

Representative HORTON. Then that removes from us the jurisdiction over this problem once we refer it back, apparently, and I don't think that is the way we ought to proceed. I think we ought to proceed in a logical way, an objective way, to find out the best legislation.

I have no objection to taking the time to look at this legislation. The limit of August 31 is put down by the Senate, not by us. I am willing to have hearings on this bill. Let's get people in and have them testify and let us decide.

Chairman PASTORE. Frankly, I don't oppose that but you people are not understanding. The thing I am saying is this. The deadline is August 31. I have to report this thing out one way or another. I am not binding you people in any way, I am not stopping the hearings.

Representative HORTON. You are not going to have any hearings for us to look at the subject. You say go back and handle it in the Senate and we will handle it in the House. The Joint Committee has jurisdiction over the subject. It ought to maintain the jurisdiction. It ought to come out with a sound bill. That is not a sound bill they have in the Senate now.

Representative PRICE. This committee would not be giving up any jurisdiction at all. It would be acting on a matter before us now. We would be taking the action the committee desires to take at this time. If somebody wants to revive the matter all they have to do is drop a bill in the hopper and the process would start all over, then we could have hearings.

Representative HORTON. You have already done that. You put it in yesterday afternoon.

Representative PRICE. That is not the same matter. That is for a different purpose. That was only to have in printed form the thing you have here now so you know what the thoughts were and what the ideas were.

Representative HORTON. That is what John is talking about. That is the very bill we have before us.

Representative PRICE. Our immediate job, and I think we ought to proceed to do it, is report unfavorably on the bill before us.

Representative MCCORMACK. Can we at the same time schedule hearings on H.R. 15273 and S. 3770 so we can hold hearings to report out legislation?

Chairman PASTORE. You may do that and you may start your hearings tomorrow and I appoint you as chairman of the ad hoc committee to do it.

Representative MCCORMACK. I think it is a responsibility, with all due respect.

Chairman PASTORE. I want the cat off my back, that is all. All I am saying is the deadline is August 31. I don't know what the leadership is going to do. If the people who are interested in S. 1439 prevail upon the leadership to bring the measure up for debate, then in that case my question is—my dilemma is—what shall I do?

Representative MCCORMACK. Tell them we are working on it.

Chairman PASTORE. You think that will convince anybody?

Representative MCCORMACK. I think that is at least a legitimate position.

Representative PRICE. I would like to see a vote made on the motion by the gentleman from Tennessee.

Senator BAKER. Before you vote let me make sure I have the situation fixed in my own mind, to make sure I am not proceeding under a misapprehension.

The compromise, so called, or substitute, was introduced yesterday?

Chairman PASTORE. Yes.

Senator BAKER. It is identified as S. 3770?

Chairman PASTORE. Yes, sir.

Senator BAKER. I understand it was introduced in the House as well, is that correct?

Chairman PASTORE. Yes, sir; as H.R. 15273.

Senator BAKER. That proposal really is still before this committee even though we report unfavorably on S. 1439. You can have hearings on the bill, you can dispose of the deadline of August 31. You can do whatever you want to do. It seems to me from the parliamentary standpoint we are in acceptable shape.

If it is appropriate now I would suggest that we have a vote on the motion that we report unfavorably on S. 1439.

Representative HORTON. We don't have a quorum now.

Chairman PASTORE. You had a quorum.

Representative HORTON. I am not going to make the point.

[Discussion off the record.]

Chairman PASTORE. I wish you would stay until we get two more here. This may be the last opportunity before August 31 to take this action, and we must take the action.

Representative LUJAN. Are you going to schedule hearings on the two new bills or not?

Chairman PASTORE. Well, it strikes me that everybody is in accord with the bill that was given to you 2 days ago. The only problem we have here is on page 18. I think what you ought to do, if you want to hold the hearings, is get Dr. Kissinger and get Bob Fri up here on this question of page 18 and let's thrash that out. That is the only thing that is really in controversy here. There isn't that much to it.

[Discussion off the record.]

Representative ANDERSON. Mr. Chairman, is it appropriate to engage in any discussion while we are waiting for the others?

Chairman PASTORE. Yes.

Representative ANDERSON. I was going to say I have had some time to go through H.R. 15273, which was the compromise version that was reached within the last day or so. And as I indicated in my earlier colloquy with you, I have some reservations about parts of the compromise, and I call attention to section 15(a). Frankly, what I would like to do would be to make those changes, suggest some amendments, and drop in a clean bill, and that would provide some basis, I would hope, then, for this committee at the Chair's convenience holding some hearings.

Chairman PASTORE. You know Mr. Anderson, Committee Counsel Parler worked assiduously on this since we met here the first time.

Representative ANDERSON. I know he did.

Chairman PASTORE. He consulted with all of the agencies. Naturally, of course, the administration would rather see nothing done at all. They made that point clear. They said in effect, well, we haven't had much trouble in this regard, we are watching it very closely, this law isn't going to protect us it is how we administer our laws already presently on the books that is going to make a difference.

I think that in recent years we have become a lot more alert to the dangers that are involved. As a matter of fact, terrorism is a new phenomenon, as you well know.

Now we are talking about safeguards, we are talking about safety, we are talking about a lot of other things we never used to talk about, as diligently, possibly, as maybe we should have.

The fact still remains that a lot of decent people, are rather apprehensive about this whole thing and the laxity that has been exercised from time ot time. Even now I understand the Nuclear Regulatory Commission has declared a moratorium on licenses. That is a new phenomenon as well.

Now the point is, you see, that with all the work that had been done we reached a very good compromise. Then Senator Ribicoff and Senator Percy and Senator Glenn came up to me and said, look, we agree with everything in your bill but we want these standards or criteria put in the bill. So we talked back and forth. I said I can't buy that because it gives the Congress veto power over a directive of the President. And I said it is unconstitutional. So finally they agreed to go along with the idea that the President would have the right to shape it down, to extend it, to change it, you see, provided of course, all he would be required to do is just to notify the Congress as to what he had done.

Now I don't think it is such a bad deal. I really don't think it is such a bad deal. But it is true that Robert Fri and Henry Kissinger talked to me today but Henry Kissinger did not talk to me from having read this, he merely was being guided by what some of the people in his shop have said.

I tell you, frankly, if we are going to satisfy Bob Seamans and the administration completely we are never going to get a bill.

At some point there is going to be a little disagreement and we will have to debate this matter on the floor to find out what the will of the Congress is going to be.

Frankly, I think the only thing that separates us now is this matter of the criteria. I think if you people want to go into it a little more deeply that wouldn't take too long.

I certainly wouldn't have the time. But I think that any other Member will have the time. We will get them up here and find out just how disastrous this really is. I don't think it is at all.

First of all, this does not come into being until 18 months. You have an escape hatch here for the simple reason that the President can modify it by directive. And, third, that act is more or less final unless the Congress of the United States wants to pass legislation. So you see the compromise isn't that bad. It isn't that bad.

Now I realize that this committee feels that S. 1439 goes a little bit too far; it is a little bit too strong. I think so, too. As a matter of fact, we are told categorically here by the representatives of every agency that if this bill passed as it was introduced they would recommend that the President veto the bill, and I think he would. There is a chance even if we reach a compromise he might veto it. I don't know.

The President of the United States would rather have us do nothing on this because he feels that this matter is being fairly handled by the agencies at the present time. I don't think he would object to some kind of modification that is mild enough to protect us, that states the policy as we had already suggested in our alternative.

Representative Anderson. My understanding was from talking to Mr. Fri that rather than their being totally opposed to any action they were simply asking us to take into account and into consideration the fact that this task force from the executive branch was going to report on or about the 15th and that they wanted those conclusions laid before this committee before we finally decided on the matter. There can be a difference of opinion on that question.

Chairman Pastore. All right; what is the pleasure?

The motion before the Joint Committee is that we report back S. 1439 unfavorably. All those in favor of that please raise your right hand.

Unanimous.

[Present and voting were: Senators Case, Symington, Baker, and Pastore; Representatives Price, McCormack, Lujan, Anderson, Horton, and Brown.]

Representative McCormack. We would like to request further hearings on this.

Representative Anderson. We have a Subcommittee on International Cooperation Agreements, don't we?

Chairman Pastore. You have another meeting here Mr. Jackson is very much interested in.

Mr. Murphy. That is at 10 o'clock tomorrow.

Representative Horton. Who is chairman of the International Agreements Subcommittee?

Mr. Murphy. I believe it is Mr. Roncalio.

Chairman Pastore. He is ready to give it away, too.

[Laughter.]

Representative Horton. You appointed an ad hoc committee, didn't you? I thought you appointed Mike McCormack.

Representative McCormack. I will do it if you want me to.

Chairman Pastore. I am asking Mr. Price. Mr. Price will do it.

Representative McCormack. Monday?

Chairman PASTORE. I will leave it up to him to call a meeting. I don't think it is going to be such a difficult task whether or not we agree upon it or not. I don't know. All I was trying to explain is that we have to report this thing out by August 31 if by chance the leadership puts it down. Naturally, of course, if they don't put it down and we have enough time for the hearings we could come out with the alternative we all agree upon. We will recess until further call of the chairman.

[Whereupon, at 3:10 p.m. the committee adjourned, to reconvene at the call of the Chair.]

MARKUP OF S. 3770 AND H.R. 15419: TO PROVIDE FOR MORE EFFICIENT AND EFFECTIVE CONTROL OVER THE PROLIFERATION OF NUCLEAR EXPLOSIVES

TUESDAY, SEPTEMBER 14, 1976

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C.

The Joint Committee met at 10:15 a.m., pursuant to notice, in room S–407, the Capitol, Senator John O. Pastore (chairman of the Joint Committee) presiding.

Present: Senators Pastore, Jackson, Symington, Montoya, and Baker; and Representatives Price, McCormack, Anderson, Lujan, Horton, and Brown.

Also present: George F. Murphy, Jr., executive director; James B. Graham, assistant director; William C. Parler, committee counsel; James K. Asselstine, assistant counsel; Francesco Costagliola, professional staff member; Norman P. Klug and Stephen J. Lanes, technical consultants.

OPENING REMARKS OF SENATOR PASTORE

Chairman PASTORE. We will call this hearing to order.

Of course, I must acknowledge the fact at this juncture we do not have a quorum. I am hopeful that we will develop a quorum so that some action will be taken one way or the other today. The reason for my anxiety in that regard is the fact that we do have a bill on the Senate Calendar, the bill that came out of the Foreign Relations Committee which bore the title of the original bill that was reported by the Government Operations Committee of the Senate. As a matter of fact, the entire body of the bill as it now exists on the Senate Calendar only bears the title of S. 1439 but the entire context of that legislation was developed by this committee together with a compromise that was worked out at the time that apparently was acceptable to the Foreign Relations Committee and that is the bill that will be considered, as I understand, some time today if it can be called up for immediate consideration.

In the meantime, I understand the Members of the House have been working on another aspect of the bill and it would be my hope that this committee, once we constitute a quorum, will have some kind of vehicle to report to the House so that, no matter what happens, there will be a possibility of a compromise or a possibility of at least going to conference to see if something cannot be worked out.

Now, we met with the President of the United States and we explained our predicament to him. As a matter of fact, the four people who are here—well, no: Mr. Brown was not there; Mr. Anderson was there; Mr. Price was there; Mr. Baker was there; and I was there; and the President said that he would come up with some guidelines once the task force that he had appointed would report to him.

I notice in an article, which I consider to be a fine article, by David Binder today, that the President has indicated pretty much that he is ready to send up guidelines. He suggested at the time that we wait.

I told the President at the time that I would be willing to wait but that was predicated on the fact that something needs to be done before we adjourn sine die because there will be consternation all around unless we do something about it.

The ultimate decision, of course, will be up to the President of the United States as to whether or not he will approve or veto.

The fact remains that in the atmosphere that prevails today something needs to be done. This is a very complicated subject. I think the objective is the same on the part of all the people concerned.

What we are trying to do is stop proliferation in a manner that bombs will not be made from the material that is reprocessed. That is fundamentally the concern of all of us. Where we differ, of course, is how do you approch this very complex problem. Do you do it unilaterally on the part of the United States and remove itself completely from this field where by its influence will be lost in dealing with other supplier nations or do we forthrightly say, well, the devil with it all; let us do what we think we should even if it means the extinction of the American nuclear industry?

Now, that may be a very extreme statement but that is the allegation that is being made by the manufacturers in this country. They feel this will be the beginning of the end of the American nuclear industry in this country. That is their position.

On the other hand, we have a concerned citizenry who feel that this matter has been loosely handled by all of the supplying nations and the time has come when we have to put our foot down in view of the fact that now we have a suspicion that something is going on in Taiwan; we have the experience with India; and there is a lot of merit and logic to the fact that something needs to be tightened up, and I think we all agree with that. We all agree with that.

So, I would hope, without prolonging this statement of mine, that, once we gather a quorum here, that I understand Mr. Anderson has developed some kind of legislation, together with his colleagues, that we will consider that and if need be report it at least to the House inasmuch as there is a Senate bill, and, frankly, my own opinion is, and I am going to say this very, very frankly to my colleagues, I have been around here for 26 years and if that bill comes up for consideration on the floor, inevitably it will pass and I don't think we can stop it no more than we can stop the wind.

What you boys do in the House, I would hope that you would do something so that at least we will have a vehicle whereby at least this Joint Committee that has had the experience all over these years will not be precluded from this consideration.

As the bill now stands, the jurisdiction is assumed by the Government Operations Committee. All they have there is the title. The body

is all ours. If it is passed as a Government Operations bill, there you are. As far as I am concerned, they are welcome to take it.

Senator BAKER. Mr. Chairman?

Chairman PASTORE. Mr. Baker.

Senator BAKER. Mr. Chairman, I do not want to prolong the discussion at this issue unduly, but since we do not have a quorum I would like to add a few words to those well-chosen comments you have just made.

As I told you, Mr. Chairman, I have not agreed to the bill coming up on the Senate floor today. I have no doubt, as you point out, that the bill can be motioned up and I am not at all sure that I could prevail. As a matter of fact, I am sure I could not prevail in an effort against the leadership to prevent that bill from becoming the pending business.

It is not my present intention, however, to let that occur by unanimous consent. Not because I am opposed to some sort of legislation to control proliferation of nuclear weapons, but because we are talking about doing something in too much of a hurry.

I have before me a letter I received from ERDA,[1] making detailed and, I think, very excellent suggestions on the form of legislation to help control the proliferation of weapons gradually.

I have studied with keen interest the proposal which has been made by Congressman Anderson and I think it has much merit.

I participated in the hearings and discussions of this committee on the Government Operations referral and participated in the vote to report unfavorably the Government Operations bill. I did not participate in the formulation of the so-called compromise.

Mr. Chairman, I think in many ways we are chasing the wrong ghost. I think that two or three things need to be brought into focus if we are to deal in a rational way with the threat of nuclear proliferation.

The first is that most of our efforts, including the Nonproliferation Treaty, in my judgment are relevant to a time at least a decade ago and have little relevance to the situation today. Proliferation is no longer a threat; it is a fact.

The second thing is that the derivation of weapons grade material, whether it is uranium or plutonium, is no longer the necessary undertaking of great industrial nations or giant consortia of nations with billion dollar gaseous diffusion plants or centrifuge operations. It is no longer an engineer's job; it is a chemist's job.

As we know from the very considerable success enjoyed by our friends in India, by the presumed success of our friends in Israel, by the alleged success of our friends in Taiwan, you don't have to have a giant fuel reprocessing plant or gaseous diffusion operation or centrifuge operation to develop a weapons grade material. It is a chemist's job.

The last thing I want to say is that the United States has very little leverage left, in my view. There was a time when we had ultimate leverage when we were the only nuclear country in the world but we aren't any more.

In addition to the so-called nuclear club, there are I don't know how many threshold nations. In addition to the nuclear nations and the

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[1] Letter dated Sept. 13, 1976, from Robert C. Seamans, Jr., administrator to Senator Pastore. See app. 4, p. 257.

threshold nations, there are probably scores of nonnational entities—I am speaking of great international industrial combines—that could, if they wish, devote the talent and the resources to the creation of weapons potential.

Now, that is truly a frightening prospect. But I don't think we are going to contain that threat by eliminating the last vestige of leverage that the United States has, and that is the leverage we derive from our role as a potential supplier nation. I think we are rapidly dissipating that leverage. I think we are rapidly suggesting to the world that we aren't or may not be a reliable supplier.

So, I think, Mr. Chairman, we ought to give a lot less attention to the question of how we deal with reprocessing plants, although that certainly requires a great deal of attention, a lot less attention to the grand problems of the 1960's, and a lot more attention to the question of the 1980's.

That question, Mr. Chairman, may be beyond the scope and even the jurisdiction of this Congress, let alone this committee. It may be, in fact, that the problem is so serious and widespread, so significant, that it ranks as one of those problems that come along once every millenium, once every thousand years, possibly, that civilization has to deal with, how do you avoid extinction.

It may be that it is even greater in terms of the challenge and the depth of threat than it was after World War II when we convened the nations of the world and chartered the United Nations.

Maybe it is time to have another convocation of nations to devise the machinery and the techniques for the control of nuclear explosives and to stop burdening our concerns with reactors or reprocessing plants and start thinking about the totality of the problem.

Mr. Chairman, all this is by way of saying that I don't think we are nearly ready to deal with this question on the floor of the Senate. I do not intend to support the original bill.

Chairman PASTORE. I realize the position of my dear friend from Tennessee, and I agree with a lot of the things he has said, but I think we have to be a little practical here and see what confronts us, and understand what confronts us.

You recall the original bill, S. 1439, was reported out of the Senate Government Operations Committee. That bill was absolutely unacceptable, absolutely unacceptable. So much so that when I talked with the authors of the bill, while they didn't admit it, I think they acquiesced with that observation; whereupon, I called upon Bill Parler to reshape the bill and he reshaped that bill.

Now, I realize that it is not totally satisfactory to the administration and to some members of this committee. All I do know is this: That it is being vehemently pushed by several members of the Senate Government Operations Committee, including some members of the staff who want it so badly that they can taste it. As a matter of fact, they are all in this room now.

That is where it stands.

If this bill is called up, with the motions being what they are, there is no question in my mind that, in all probability, the bill is apt to pass.

I was very, very much disturbed about giving the Congress of the United States the right to veto an act of the President. It is absolutely

unconstitutional. The lawyers on that committee must have been aside from their reasoning when they wrote that in the bill. No one would ever buy that.

I wouldn't want a President whose actions would be vetoed by the Congress. They could overrule him and vote against him but the veto power under the Constitution belongs to the President of the United States, and nobody else. But they wrote it in the bill.

I finally said, in effect; all right. I will go along with the compromise provided you take the veto power out and you leave it to the President of the United States to take whatever action he wants and notify the Congress of that action so that the Congress then could pass whatever legislation they want to pass in order to meet what they thought should be the proper way of proceeding.

Now, that is where we stand.

Now, it is true if this comes up and unanimous consent is needed I understand that the Senator from Tennessee will interpose an objection.

On the other hand, I don't think it is subject to a unanimous consent agreement.

I think all the administration has to do or the leadership has to do is to motion it up. If they motion it up, I understand that the emotions are so strong, in all probability it will pass.

Frankly, because I worked out what I thought was a reasonable compromise, which is not satisfactory to many members of this committee, I understand—and I am not finding any fault with that; you have a perfect right to disagree with it—that, in all probability, I might have to vote for that bill, anyway, if it is called up.

Then it will go to the House. It will go to the House as a Government Operations Committee bill. It won't go to the Joint Committee on Atomic Energy.

This whole ball is being taken right out of the hands of the Joint Committee on Atomic Energy. It is no longer a reorganization. It is not that at all. It is the rewriting of the Atomic Energy Act without the consent and without the approval of this committee.

I am not going to be here next January; you fellows will have to wrestle with that.

You know, it is getting so the International Relations Committee of the House has taken a bite out of it; the Government Operations Committee has taken a bite out of it. If they don't want the Joint Committee on Atomic Energy, all they have to do is say so.

I am not jealous of the jurisdictional question that is involved in this but that is the kind of power play that is being used .

Let us face it. If you want to call a spade a spade, it is a power play.

I tell you it is going nowhere, because when it gets to the President of the United States I know he is going to veto it. We have been told that in this room by all the representatives of every agency.

I am beginning to think that there are some people in this Government who would prefer a headline more than a result and you won't have a result here until you work something out that is satisfactory. While it may be said that they have been struggling with this for a long, long time, I agree with the Senator from Tennessee, this is

such a complex, intricate, complicated problem that it requires a lot of time, requires a lot of serious thought.

After all, let us face it. The minute you remove the influence of the United States of America from the international market in nuclear energy, you will have lost your hold on this very serious problem and, second, in all probability we might have lost our influence.

That is the reason why I am a little set back; this is an important meeting and all we have here is six members. We need 10 members. Where are the other four?

I am telling you, unless you do something today this committee will be excluded from the consideration of this legislation and that will be catastrophic, catastrophic, because this committee has been very, very much interested in the development of this whole program. As a matter of fact, I managed it on the floor in 1954 when we amended the law.

Now, if the function of this committee is only going to be confined to make a bigger and better bomb, I want no part of it. I repeat that again. But, if we are interested in developing a second source of energy with proper safeguards, with complete adherence to the Nonproliferation Treaty, I think we ought to give that very serious consideration.

If there are any people in the Congress who feel that nuclear energy has reached the point where it ought to be brought to a stop, then they ought to have the courage, and, I might say, to use the vernacular, they ought to have the guts to stand up and just rule it out. But this idea of getting at it by the back door, by the side door, by the cellar and by the attic, I don't buy it.

Gentlemen, that is the situation.

That is all I am going to say this morning.

Representative Anderson. Mr. Chairman, if I may, I think largely for purposes of the record rather than any attempt to restate the very eloquent arguments that you have just made and the statements that were made earlier by Senator Baker, I find myself largely in agreement with what you have said and with what the Senator from Tennessee has said.

With me, it is not simply a matter of jurisdictional sensibilities. I have no particular pride of authorship in H.R. 15419, which is the bill which, together with Congressman Price, we introduced in the House of Representatives on the second of September.

But, I would hope that this committee could preserve its jurisdiction over this important question because I do believe that represented around this table are the many, many years of experience that are needed to work on legislation as complicated as this.

I could not agree more with Senator Baker that in a sense it is a problem that is beyond any committee of the Congress; that the world has changed, and that the United States cannot achieve our purpose simply by the unilateral promulgation of criteria, which is what the effect of S. 3770 would be, simply a statement that this is what the United States would do.

If we could then leap from that to the conclusion that all other nations would follow suit it would be a wonderful world indeed but it is not that kind of world. We have no assurance that other nuclear supplier countries which increasingly are gaining ascendancy in the markets of the world in this area are going to follow suit.

The whole theory and thesis of H.R. 15419, the bill which Congressman Price and I have introduced, is that this has to be by way of international arrangement or mutual undertakings, if you want to use that term. This has to be the framework on which we build a truly effective nonproliferation policy.

I would hope, therefore, that we could in this committee mark up that bill.

I am in receipt, as I know other members of this committee are, of a long, detailed statement from Dr. Seamans [1] stating some additional views on this particular bill, H.R. 15419, making suggestions that, for the most part, I think are constructive, suggestions as to ways in which the bill could be tightened and strengthened and amended to become a better vehicle to address this whole subject of nonproliferation.

Obviously, we await the presence of enough members to get on with that.

I simply state for the record that this bill, together with some changes that I think can and should be made, to me represents the best way of addressing this problem.

Representative PRICE. Mr. Chairman.

Chairman PASTORE. Mr. Price.

Representative PRICE. While there is an absence of a quorum of the full committee, there is a quorum of the House members of the Joint Committee. There is nothing in our rule that would preclude the House members from reporting back to the House a legislative matter before the committee.

I would suggest that the House members entertain that idea of reporting it.

Chairman PASTORE. I would prefer that you wait just so that the question won't be brought up. We are absent three members. I would hope that you would wait on the motion. It is a joint committee. I don't think you can separate the two bodies except in the case of confirmation because under the Constitution that belongs to the Senate.

I think, insofar as reporting a bill out, we would be stretching the law if we suggested that you could do that without a full quorum of the full committee.

Representative MCCORMACK. Can we work on the bill?

Chairman PASTORE. Yes; you can do whatever you want.

You can work on the bill. There is no question about that. You just cannot report it out without a quorum.

Representative PRICE. I suggest, Mr. Chairman, that we do proceed to consider the bill, the full committee consider the bill, and at such time as a quorum is present we take a vote on it.

Chairman PASTORE. That is satisfactory. It is open to you gentlemen.

Senator BAKER. Did I understand Mr. Price to say that we will go ahead and work on the House bill but make no effort to report a bill until there is a quorum of the full committee?

Representative PRICE. The full committee.

Chairman PASTORE. I yield to the distinguished Congressman from Illinois, the vice chairman of this committee, to take it over at this

[1] Letter dated Sept. 13, 1976, from Robert Seamans, Jr., ERDA administrator, to Senator Pastore. See app. 4, p. 257.

point inasmuch as the House has worked on this, and let him act as chairman for the moment.

Representative PRICE. I would ask the counsel to read the bill so that members, if they choose, may have the opportunity to offer amendments.

Mr. Parler?

Mr. PARLER [reading]:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the Nuclear Explosive Proliferation Control Act of 1976.

STATEMENT OF POLICY

Sec. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to nonnuclear-weapon states, and the rising technical capabilities of many nations making possible, and in some cases likely, the independent development of at least a small scale nuclear fuel reprocessing capability, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to——

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;——

Representative BROWN. Mr. Chairman?

Representative PRICE. Mr. Brown.

Representative BROWN. I note we have a number of technical amendments submitted by ERDA, the first one of which occurs in this paragraph.

I wonder if it would not be appropriate to consider them?

Representative PRICE. Would you read the amendment?

Representative BROWN. It is on page 2, line 14.

Mr. PARLER. The first ERDA amendment is to insert the words "sensitive nuclear" before the word "technology".

Representative PRICE. Is there objection to the amendment?

The Chair hears none.

The amendment is adopted.

Mr. PARLER [resumes reading]:

(b) insure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the Statute of the International Atomic Energy Agency ("the statute") and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

Sec. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment,

materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments thereto and to review the policies of the United States affecting the proliferation of nuclear devices;

(c) licensing criteria which would be applied immediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;——

Senator BAKER. There is a further suggestion on that page, on that paragraph, is there not?

Mr. PARLER. On page 4, line 3, to delete the word "criteria", and insert the word "principle".

Representative PRICE. Is there objection to the amendment?

The Chair hears none.

The amendment is agreed to.

Mr. PARLER [resumes reading]:

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish——

Senator BAKER. Would it be convenient for Mr. Parler to identify the proposed ERDA changes?

Representative PRICE. Do you have the ERDA sheet in front of you?

Mr. PARLER. I have the ERDA technical amendments that were received.

I have another set of amendments from ERDA that were received at 8:30 this morning. I will read those also.

Senator BAKER. Mr. Chairman.

Is it not true, Mr. Parler, that one set is technical amendments and the other proposed substantive amendments?

Mr. PARLER. That is my understanding, but the amendments I received at 8:30 this morning quite frankly I haven't given the professional consideration that they would deserve.

Representative PRICE. When you get to the point, mention the technical amendment and mention the substantive amendment, and we will discuss the substantive amendment.

Chairman PASTORE. May I make a suggestion in order to expedite this because, as you read it hurriedly, this is not of great assistance to anyone.

This bill was introduced; we are all familiar with it. Let us take it section by section.

Let us take subsection (c).

Is there any objection to it?

If there is an amendment, we will consider it rather than have him read it hurriedly.

Representative McCormack. Could we have him explain what each section does?

Chairman Pastore. As you come to a section of the bill introduced if there is no objection to the section as written on the part of a member we will go to the next one rather than having this whole thing read. I don't know who is following it but we are all familiar with it.

Representative Price. That is a good suggestion.

I will ask Mr. Parler to follow that procedure.

Let us deal with the last two amendments to be certain that we have them. Mention where they are and what they are.

Mr. Parler. The first amendment was on page 2, line 14, to insert the words "sensitive nuclear" before the word "technology."

Representative Price. That is a technical amendment.

Mr. Parler. That is correct.

Representative Price. Go to the next technical amendment.

Mr. Parler. Page 4, line 3, to delete the word "criteria" and insert the word "principle."

That is also a technical amendment.

Representative Price. And that has been agreed to?

Mr. Parler. Yes, sir.

The third: On page 4, line 13, delete the words "international arrangements" and insert the words "mutual undertakings."

Representative Brown. Mr. Chairman.

Representative Price. Mr. Brown.

Representative Brown. That change which has been suggested which is a technical change on page 4 occurs at other places in the bill as a suggestion.

While I am not thoroughly aware of all the issues involved in this change of wording, I would, personally, prefer to see us retain the term "international arrangements," although I would have no objections to including "or mutual undertakings" as a portion of that.

I think there may be a connotation that "mutual undertakings" are a matter of less substance or less formal than "international arrangements."

As I say, I am not precisely sure how the difference may be interpreted.

Representative Anderson. There is a reference to the point that the gentleman makes in Dr. Seaman's letter of the 13th of September. I think it would be well at this point to read it:

> A second point concerns use of the phrase "international arrangements." As defined in the Atomic Energy Act, that term does not include Agreements for Cooperation or other mutual undertakings which are not treaties or other agreements approved by the Congress. As written the bill would thus severely limit the types of international understandings which would serve as the basis for establishing future licensing principles to be applied by the NRC.

In other words, I put the opposite construction than the gentleman from California on this substitution of the term "mutual undertakings" for "international arrangements." I think it broadens the possibility to enter into agreements with other countries in an effort to limit proliferation.

It does, I think, also eliminate the danger that if we insist on using international arrangements that we leave out agreements for cooperation as that is defined in the Atomic Energy Act.

I know there might be the natural inclination to think that "international arrangements" somehow has a nicer ring about it and sounds as if it is more important than a "mutual undertaking."

Chairman PASTORE. Would you gentlemen be willing to hear from Mr. Parler as to what he thinks this does or does not do?

Mr. PARLER. The purpose of using the words "international arrangements" was to depart from what I understand the present practices to be, one of which is to impose in export licenses conditions which this country thinks should be imposed in order to deal with proliferation matters. The situation then is that our domestic licensee—the exporter from this country—presumably has the responsibility to see that the recipient government carries out those conditions.

We are talking about a situation in which there are exports under existing agreements for cooperation which, for the most part, do not include all of the proliferation policies, objectives, that presumably should apply.

Chairman PASTORE. Do you agree with Mr. Brown that, if we added "mutual undertaking" in addition to "international arrangements"—would you consider that in any way to disturb what we are trying to accomplish?

Mr. PARLER. No, because it would preserve the important point that there has to be a basis for an understanding that the recipient government will indeed comply with these requirements.

Chairman PASTORE. In other words, you agree with Mr. Brown?

Mr. PARLER. Yes, sir.

Representative ANDERSON. Could I, for purposes of clarification, Mr. Chairman—I am not sure I understood Mr. Parler precisely—are you suggesting language to this effect, "mutual undertakings or, where appropriate, international arrangements"?

Representative BROWN. I was suggesting the use of both terms.

I concur with your view, that we want to make this as encompassing as possible. I had the feeling that possibly there would be an effort to shift certain things which are now the subject of international arrangements and subject to approval by the Senate toward a lesser status if we didn't include the term "international arrangements."

Chairman PASTORE. In other words, "international arrangements and/or."

Representative LUJAN. Or "other mutual undertakings."

Representative BROWN. That was the intention of my suggestion.

Representative PRICE. Without objection, the amendment is agreed to.

Representative BROWN. May I assume that where other language occurs in sections——

Chairman PASTORE. That that correction be made.

Representative PRICE. Without objection.

Mr. PARLER. The next technical change is on page 4, lines 23 and 24, the words "its agreement with a nuclear supplier nation, its agreement to adhere to international proliferation controls and supervision," would be deleted and, in lieu thereof, the words, "any material obligation with respect to the peaceful use of nuclear materials, equipment, or sensitive nuclear technology" would be substituted.

That, again, is a technical amendment.

Representative PRICE. What is the reason for it? Why drop this language in the bill and substitute that language?

Mr. PARLER. In the absence of any further explanation available to me from the ERDA, I can't answer the question, sir.

Representative PRICE. How does ERDA justify it? On what basis does ERDA suggest the change?

Mr. PARLER. All that I have from ERDA, Mr. Price, is a list of technical amendments without any explanation as to what is wrong with the present language or what is right about the substituted language.

Representative MCCORMACK. Mr. Chairman, the author of this amendment, Mr. Peter Brush, is with us. He could give the rationale.

Chairman PASTORE. Is he here?

Mr. BRUSH. Yes.

Chairman PASTORE. Come forward, please.

STATEMENT BY PETER N. BRUSH, COUNSEL, INTERNATIONAL OFFICE OF THE GENERAL COUNSEL, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. BRUSH. The purpose of this technical amendment, Mr. Chairman, is to attempt to broaden the types of agreements, and types of undertakings which would be subject to the procedures called for here in the event of a violation.

Chairman PASTORE. Would you say this is more protective?

Mr. BRUSH. I would say it is broader, Mr. Chairman, and therefore would encompass more types of agreements which we are seeking to bring under this section.

Rather than just agreements with nuclear supplier nations or agreements on international proliferation controls, we would like to cover any material obligation with respect to peaceful uses of atomic energy.

Chairman PASTORE. Isn't that a good suggestion?

Mr. PARLER. It seems to me if you want to broaden something you would follow the approach that was taken in the earlier technical amendment that we were talking about. In other words, not necessarily to delete any language but to include the additional language that would result in the broadening.

Chairman PASTORE. What do you say to that?

Mr. BRUSH. Mr. Chairman, we have no particular pride of authorship with this language. The intent was to attempt to bring in a number of types of agreements.

Chairman PASTORE. I realize that, but what do you have to say to what he has suggested?

Mr. BRUSH. If that is the intent of such a change, we would presumably have no problem with it.

Chairman PASTORE. How does the committee feel?

Representative MCCORMACK. The more words you have, the worse it is. We ought to do it as simply as possible. If the recommendation we have from Mr. Brush and ERDA is broader and does the same thing, I see no reason to say it twice. I think all we do in that sort of thing is confuse the legal situation.

Chairman PASTORE. In other words, you would take Mr. Brush's recommendation in reference to this?

Representative McCormack. Yes, I would.

Chairman Pastore. Does it do any violence to the objective here, Bill?

Mr. Parler. No, sir.

Representative McCormack. I move we accept the suggestion.

Representative Price. Without objection, the suggestion of Mr. Brush will be accepted.

Mr. Parler. Do you want me to repeat the wording?

Representative McCormack. Yes.

Mr. Parler. We have this written down here.

Section 4 on page 5, the only technical change that is on that page is line 20, to delete the word "sub" before "sections" and on line 21 to delete the letters "m" and "v." That is clearly a technical change and it presents no problem.

Representative Price. Without objection.

Mr. Parler. On page 6, there is a technical amendment to lines 1 and 2, which would delete the words "with all interested nations." That also presents no problem.

Representative Price. Any objection?

Mr. Brush, if you have any points to raise on any of these, raise them as we go through them.

Mr. Brush. I will. Thank you.

Mr. Parler. The first substantive change appears on page 6, after line 2, the following words will be added: "The United States, as a matter of national policy, shall issue export licenses for or otherwise authorize export of nuclear materials and equipment upon a determination that all the applicable statutory requirements are met."

From my standpoint, that change presents no problem.

Representative Price. Without objection, the change is agreed to.

Representative McCormack. I have a question, Mr. Chairman.

Representative Price. Mr. McCormack.

Representative McCormack. As far as the structure is concerned, does this delete any of the material in the existing bill and, if so, what does it delete?

Mr. Parler. Later on?

Representative McCormack. I beg your pardon?

Mr. Parler. You mean later on?

Representative McCormack. No, right here. Is this inserted as the introductory statement?

Mr. Parler. This is an addition.

Representative McCormack. Is this the beginning of section 5?

Mr. Parler. I would assume that is where it would go. It is not entirely clear, but I think it would go at the beginning of section 5, yes.

Representative McCormack. So, it is an introductory statement for section 5 rather than a closing statement for section 4?

Mr. Parler. I think that is the way it should be. That is not the way the amendment was written here.

Representative McCormack. There is some confusion on this point. We ought to establish what section we are in.

Mr. Brush, do you have it written on section 4?

Mr. Brush. It was our proposal that it be a concluding sentence on section 4.

Representative McCormack. Then you would not disturb Mr. Parler's structure for section 5 as far as the introductory statement?

Mr. Brush. That is correct.

Chairman Pastore. What is the reason for it, Mr. Brush?

Mr. Brush. This point is mentioned in Dr. Seaman's letter, Mr. Chairman.

Representative Anderson. I am confused as to what we are talking about.

Chairman Pastore. Not everybody in this room has the letter.

Mr. Brush. As indicated in his letter, a number of countries have of late taken action which in our judgment indicates that they are questioning our ability to act as a reliable nuclear supplier. In many cases, this results from problems within the Government structure on issuing export licenses and other authorizations on a timely basis.

The purpose of this language is not to be operative; it is not intended to direct any particular action on any particular license. But it would be a statement of U.S. intent that where all statutory requirements are met that exports will occur on a timely basis.

Representative Anderson. Mr. Chairman, I would like to offer an amendment to the amendment, if I may be heard.

Representative Price. Mr. Anderson.

Representative Anderson. I would like to propose that following the word "policy," as the amendment now reads, it read "The United States, as a matter of national policy, shall issue export licenses"—and so on. I would like to propose an amendment to that amendment, the addition following the comma, following the word "policy," these words:

That after due consideration by the agencies involved and within a reasonable time, shall issue export licenses for, or otherwise authorize, export of nuclear materials.

I offer the amendment.

Chairman Pastore. Will you explain why?

Representative Anderson. Because I think it would underscore what is basically the intent and purpose of this proposed new section or proposed amendment, and that is that after we have gone through all of this machinery to make sure that the criteria set forth in the bill are complied with, and then we really will go ahead and issue the license.

It underscores the fact that there is not going to be any waffling by the United States. I totally agree with those who make the point that if this whole bill is going to be effective, it has to preserve the credibility of the United States as a reliable supplier.

Chairman Pastore. The amendment being suggested by ERDA will do exactly that. Why do you have to put in "reasonable time" and all that "razmataz"? Will you restate that again?

Mr. Parler [reading].

The United States, as a matter of national policy, shall issue export licenses for, or otherwise authorize, export of nuclear materials and equipment upon a determination that all the applicable statutory requirements are met.

Chairman Pastore. Why doesn't that do it?

Representative Anderson. Reasonable men can differ, Mr. Chairman. It seems to me that that language would strengthen the section as it is presently written.

Chairman PASTORE. I think we would overburden the purpose. I think this does it completely; that where the statutory provisions of U.S. laws are met with, it is a matter of policy that we will live up to our agreement. What is wrong with that? It tells the whole thing.

Representative ANDERSON. I think if you put in the additional words "within a reasonable time" you strengthen it.

Chairman PASTORE. What is reasonable time?

Representative ANDERSON. It is a question of fact. It always is.

Representative PRICE. Mr. Brush, what is your thinking on that matter? Do you think it requires any additional language?

Mr. BRUSH. I think additional language in my personal judgment would serve to strengthen it.

Representative PRICE. In what way?

Mr. BRUSH. It would get into this part of the bill the concept of timeliness which does not occur in the language which we sent up.

Chairman PASTORE. Doesn't the law already require what time must be consumed or taken into consideration on a bilateral?

Mr. BRUSH. On agreement for cooperation, but not on the issuance of export licenses.

Chairman PASTORE. Isn't that a matter of determination for the Administrative body?

Mr. BRUSH. Yes, sir.

Chairman PASTORE. Otherwise, some people might think 5 days is reasonable. Other people might think 50 days is reasonable. I don't think we ought to get into that, but leave it to the judgment of the people who are responsible for carrying out this duty. I don't see how it is strengthened.

Representative LUJAN. I think it mandates hurrying up the issuance of a license once everything has been completed.

Representative MCCORMACK. May we have the words of Mr. Anderson's amendment?

Representative ANDERSON. "After due consideration by the agencies involved and within a reasonable time, shall issue licenses."

Representative PRICE. Doesn't "reasonable time" fit somewhere in the amendment?

Representative ANDERSON. I am not particularly wedded to that part of it. The important point is the timeliness of the issuance.

Chairman PASTORE. What we are trying to say to the people whom we supply is that it is an American policy that where we have made an agreement and all the rules and regulations and statutory provisions are met with, that we shall carry out our responsibility.

Isn't that enough? It is a policy statement. If you overburden this, all you are going to do is raise a lot of other objections. I don't think you need it. I think it is superfluous. I won't question it if that is what you gentlemen on the House side want.

Representative PRICE. We will have counsel work in the stipulation "within a reasonable time" at the appropriate place in the amendment.

Representative ANDERSON. Fine.

Representative PRICE. Without objection.

Mr. PARLER. Page 6, section 5, there are three technical amendments on that page. On lines 6 and 7, lines 12 and 20, they are identical to

technical amendments that were earlier discussed by the committee, and the committee agreed to, with the understanding that conforming changes would be made elsewhere in the bill.

Representative PRICE. Without objection, it is agreed to.

Mr. PARLER. Page 7, line 7, delete the word "and" and insert the words "or any material undertaking with respect to the peaceful use of nuclear materials, equipment, or sensitive nuclear technology," and I think that technical change is also for the same purpose as one of the technical changes that was discussed earlier.

Chairman PASTORE. Now, read the whole subsection.

Mr. PARLER. I began with the preamble:

The United States shall institute immediate objectives.

One of them would be—

* * * adopt general principles and procedures to be followed in the event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty, or any material undertaking with respect to the peaceful use of nuclear material, equipment, or sensitive nuclear technology.

Representative PRICE. If there is no objection, it is agreed to.

Mr. PARLER. On page 7, line 17, the words "agreed to" would be deleted and the word "adopted" would be substituted; and also the word "major" before "nuclear suppliers" would be deleted.

Chairman PASTORE. What does that do to it?

Mr. PARLER. I suppose that I would have to defer to Mr. Brush as to the significance in the international area of the difference between the word "agreed to" and the word "adopted." But on the other point, the change clearly is a good one, because the policy would apply to all nuclear supplier nations without raising the issue which ones are the major ones and which ones are the minor ones.

Chairman PASTORE. Mr. Brush.

Mr. BRUSH. In connection with changing the concept of "international arrangements" throughout the bill to "mutual undertakings," it was our feeling that in some cases "mutual undertakings" may not actually be agreements. They may be statements of policy, principles of policy, adopted, not agreed to. We do this merely as a conforming change along with a change from "international arrangements" to "mutual undertakings."

Chairman PASTORE. Does it tighten it up?

Mr. BRUSH. In the sense we are attempting to get more types of international agreements covered by this bill; yet, it would tighten it up.

Representative ANDERSON. At this point, as I understand it, we have now agreed with Mr. Brown's position that we ought to use the words "international arrangements" and "mutual undertakings" sort of interchangeably. Would we then not need to cover that by having both agreed to or adopted so that we would have to use both words?

Mr. BRUSH. That would seem to be a proper change.

Chairman PASTORE. That is a good suggestion.

Any objection?

Representative PRICE. Let us go to the next one.

Mr. PARLER. Page 8, line 1,——

Representative MCCORMACK. Mr. Chairman, before we leave this page, I think there is an oversight. In the bill, the words "source ma-

terial" has been changed to the words "nuclear material and technology." Yet, this was not done on line 9. I presume that was an oversight?

Chairman PASTORE. Line 9 of what page?

Representative MCCORMACK. Of page 7. Generally speaking, the change has been "source and special nuclear materials" has been deleted and the expression "nuclear materials and technology" has been inserted in its place. Should that not be done on the line 9, or is there a reason why the change was not made there?

Mr. BRUSH. We have proposed in the definition section that the term "nuclear material" be used as a short term to cover "source and special nuclear material" in this Act. Therefore, such a change here would follow that structure. We did not propose a change here because it is accurate as printed. For convenience, we made as few changes as possible.

Representative MCCORMACK. It would be consistent with the definition, would it not?

Mr. BRUSH. Yes, sir.

Chairman PASTORE. It is only a repetition of it?

Mr. BRUSH. Yes, sir.

Representative MCCORMACK. It is not just a repetition, Mr. Chairman. You are using an expression here that does not have a definition. You have one definition in the front and another expression here. All you have to do is change the rest of the bill and say "nuclear materials and technology" instead of "source and special nuclear material." Then you are consistent throughout. Isn't that correct?

Mr. BRUSH. I would suggest changing it to "nuclear material" and it is consistent with the definition section.

Chairman PASTORE. You would leave out "source and special"?

Mr. BRUSH. Yes; because by its terms this bill encompasses "source and special nuclear material" within the term "nuclear material."

Chairman PASTORE. Any objection to that?

Representative LUJAN. Other than he mentioned technology that is being left out.

Chairman PASTORE. That is being explained in the definition; is that correct? Nuclear material includes technology in the definition?

Mr. BRUSH. No, Mr. Chairman. Nuclear material covers only source and special nuclear material. As I read the subsection, you are talking about procedures for recovering material.

Representative MCCORMACK. We are only talking about physical things, so we would not use the word "technology."

Chairman PASTORE. That is right.

Mr. Parler?

Mr. PARLER. I wanted to make the point that Mr. McCormack just made.

Representative PRICE. Without objection. Go ahead.

Mr. PARLER. Page 8, line 1, delete the word "and" wherever it appears and insert a comma after the word "resources." Then, on line 2, delete the words "specific initiatives the United States shall take are" and insert the word "by." So that the particular subparagraph in its entirety as amended would read as follows:

To assure all nations of the world that the United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually

seek to act with other nations to strengthen the IAEA through contribution of technical resources, support, funding and by—

and continuing with other sections which follow.

The next change would be on page 8, line 4, the word "continue" would be deleted and be replaced by the word "continuing." These changes are technical, and I think they do strengthen the objectives of the bill.

Representative PRICE. Is there any objection? If not, it is agreed to.

Mr. PARLER. Page 8, line 10, delete the word "assure" and insert the word "assuring."

Representative PRICE. Without objection.

Mr. PARLER. On page 8, line 18, change "improve" to "improving." That is just a style change.

Then the word "accountability" would be deleted and would be replaced by the word "safeguards." This is supposed to be a technical change according to ERDA. The word "accountability" was deliberately used when this provision was drafted because it was my understanding from the technical people that the accountability part of the overall safeguards system is something that should be specifically focused on and improved.

In my judgment, at least at this time, it is not entirely clear to me that the word "accountability" should be replaced by the word "safeguards."

Chairman PASTORE. What do you have to say, Mr. Brush?

Mr. BRUSH. Mr. Chairman, this change was suggested in discussions with our safeguards people. They view the accountability as one part of the safeguards system and they suggested we should attempt to improve the entire system. This would not be intended to exclude the accountability function of the Agency but merely to recognize it is merely one part of that system.

Chairman PASTORE. What would be the harm in saying "safeguards and accountability"? Put the two of them in. Is that satisfactory to the committee?

Representative MCCORMACK. "Including accountability?"

Chairman PASTORE. No; "and accountability."

Mr. PARLER. It should be "include."

Chairman PASTORE. "Include?"

Representative PRICE. Without objection, that change will be accepted.

Representative MCCORMACK. That would come after the word "system", would it not?

Representative ANDERSON. Yes.

Mr. PARLER. Yes.

Representative PRICE. Go to the next one.

Senator SYMINGTON. Mr. Chairman, may I ask a question here? I have four hearings this morning at the same time. Have we accepted ERDA recommendations in the main on the bill?

Chairman PASTORE. We are going over them now.

Senator SYMINGTON. So far?

Chairman PASTORE. Up to this point we have.

Senator SYMINGTON. May I respectfully congratulate Mr. Anderson and Chairman Price on this legislation. I have to leave shortly, but you have my proxy.

Chairman PASTORE. Well, we need a quorum. We have seven. Mr. Baker can come up. Mr. Jackson, I understand, will be here by 11:30.

Representative LUJAN. Mr. Chairman, if we work through it, it is only at the end we need a quorum.

Chairman PASTORE. Yes; but there is a tendency here not to have an increase but a diminution of the membership. The longer we wait, the smaller we get for some reason. That is what is bothering me. If I knew they were going to come later on, I would say, OK. As a matter of fact, I have been watching that door for an hour. I understand Mr. Horton is on his way. If we can get Jackson back, we can get a quorum.

Representative PRICE. Mr. Parler, go ahead.

Mr. PARLER. Page 9, line 3, a technical change. Change the word "assure" to "assuring".

Representative PRICE. Without objection.

Mr. PARLER. Page 9, line 9, insert at the beginning the words "consistent with the policies of this act" after the paragraph (d).

Representative PRICE. Is there objection? Hearing none, it is agreed to.

Mr. PARLER. Page 9, line 10, delete the word "either".

Representative PRICE. Without objection.

Mr. PARLER. Page 9, lines 11 and 12, delete the words "are under equivalent effective international safeguards controls".

Representative PRICE. Without objection.

Senator SYMINGTON. May I ask a question, Mr. Chairman?

Representative PRICE. Senator Symington.

Senator SYMINGTON. Has the staff been over these changes with ERDA?

Representative PRICE. We have comments from ERDA in a letter which takes note of some of the suggestions that ERDA makes.

Representative ANDERSON. Mr. Chairman, may I make a suggestion—and it is out of a desire to be helpful and it is in response to the question of Senator Symington. The so-called technical amendments that we are now laboriously going through were received, I think, earlier this week by Mr. Parler, and the committee staff, and they have gone through them. It is only the so-called substantive amendments of which there are only about five in number that were received only at 8:30 this morning.

I would like to offer the suggestion that to save time we adopt the technical amendments en bloc unless there are serious reservations expressed by Mr. Parler and the staff on some of them, and then we could take them up. But, a lot of them seem to be stylistic and grammatical and so on, and proceed then to a discussion of the six substantive amendments which are really the heart of the problem.

Chairman PASTORE. I don't go along with that. You have to admit that Mr. Brown made a suggestion on a technical amendment that we adopted. We added other words. I don't think you can adopt them en bloc.

Representative BROWN. Mr. Chairman, I have gone through the technical amendments. I have only one further matter in those which I feel ought to be discussed briefly. With that, I would be willing to accept the remainder of the technical amendments.

Representative PRICE. Go to that one.

Representative Brown. There occurs the language in one or two places, a substitution where it says "The President is requested and authorized," and I am wondering if that does not weaken the language and perhaps misconstrue the intent here. I would prefer to keep the language as is—"The President is directed."

Chairman Pastore. What page are we talking about?

Mr. Parler. It is in two places, sir. It is on page 9, line 15——

Representative Brown. And it is on page 20.

Mr. Parler. Right, section 15 on page 20, line 17. The section on page 20 is concerned with the President's efforts to seek international arrangements with the other nations of the world, and the language on page 9 has to do with taking steps to implement the act in its entirety.

Representative Price. You raise a good point there. I have never known of a request to somebody to do something. You either authorize them or you prohibit them.

Representative Brown. Mr. Chairman, it has been our experience—I am sure yours—it is hard enough to get the President to do something when you say "shall."

Representative Anderson. If I may, I think I perceive what may be the sensibility of the administration on this matter; that in a sense, they are suggesting that by substituting the words "request and authorize" for "direct," that instead of sort of posturing ourselves in an attitude of confrontation with them, we are suggesting that this is a matter where the Congress and the Executive are going to work together in harmony and collaboration, and there is something a little more peremptory about the word "direct" than when you say "request and authorize."

Representative Price. "Authorize" would take care of it very well.

Senator Symington [reading]:

> The President is directed to take immediate steps to assure that a maximum effort is made on behalf of the United States promptly upon enactment of this Act to have all of the other nuclear-supplier nations commit themselves to binding international arrangements under which each supplier nation will be committed to adhere to all of the criteria set forth below in all of their international nuclear trade which could be of significance for nuclear explosive purposes.

My basic objection to what has been going on in recent years is that there has been no direction. Certainly, he would want to have as much support as he could from the Congress on this particular point. I don't see anything wrong at all in saying "directed."

Representative Anderson. I frankly don't have personal difficulty with it.

Representative Lujan. I wonder if it adds another step that we have to go through by leaving the words "shall" and "direct" rather than "authorized." If we say "direct" then they have to take some kind of positive step and do more paperwork.

Senator Symington. If "direct" means he will do something about it, it will be the first time it has happened.

Senator Baker. The difference between "direct" and "request" is that the President is privileged to interpret it any way he wants to as long as there is any aspect of the Presidential authority involved, and surely there is in the negotiation of an agreement with a foreign

country. I don't think it makes a bit of difference. "Directed" suits me better.

Chairman PASTORE. Don't you think in order to avoid the sensitivity of a President who might feel that he is being told what to do that we use the word "authorize"?

Representative LUJAN. Leave it as it is and leave "shall."

Chairman PASTORE. He still has the power to veto the bill.

Representative LUJAN. Why not leave the word "shall" as we had it in before?

Representative MCCORMACK. Every appropriation bill is a direction to spend money. We direct him all the time.

Chairman PASTORE. What is wrong with "The President shall take steps"?

Representative LUJAN. All right.

Representative PRICE. Without objection, the language shall read "The President shall take such steps." Is that the last one?

Representative MCCORMACK. I have one, Mr. Chairman. There is a technical amendment I would like to raise a question on.

Mr. Chairman, on page 17, line 14, there is a change which appears to be substantive. Mr. Chairman, I wonder if I could have Mr. Brush comment on and explain this change, because I think it has some substance.

Chairman PASTORE. Where are you in the bill?

Representative MCCORMACK. I request consideration of line 14 on page 17. This is one additional proposed technical amendment which appears to me at least to require explanation.

Chairman PASTORE. We are on page 17, line 14.

Representative MCCORMACK. Mr. Brush, would you mind explaining what the change consists of and what the rationale is?

Mr. BRUSH. This subsection (1) in section 112 of the bill would be the first criterion which the NRC and other exporting agencies of the United States would apply in looking at any proposed export. The intent of this first criterion, as we understand it, is to require that assurance be received that IAEA safeguards be applied on any of our exports. However, as written, it does not distinguish between exports to nuclear-weapons states and non-nuclear-weapons states.

Furthermore, it has the phrase "or their equivalent" in it, which in our judgment may provide too large a loophole if our intent really is to assure that IAEA safeguards be applied.

Chairman PASTORE. May I interrupt you for just a moment? I yield to the distinguished vice chairman.

Representative PRICE. Mr. Chairman——

Chairman PASTORE. We have a quorum.

Representative PRICE. Mr. Chairman, I move that the committee report out H.R. 15419 as amended.

Chairman PASTORE. Is there a second?

Representative PRICE. Then we can complete the amendments.

Chairman PASTORE. Will the clerk call the roll?

Mr. MURPHY. Mr. Jackson.

[No response.]

Mr. MURPHY. Mr. Symington.

Senator SYMINGTON. Aye.

Mr. MURPHY. Mr. Montoya.
Senator MONTOYA. Aye.
Mr. MURPHY. Mr. Baker.
Senator BAKER. Aye.
Mr. MURPHY. Mr. Case.
[No response.]
Mr. MURPHY. Mr. Pearson.
[No response.]
Mr. MURPHY. Mr. Buckley.
[No response.]
Mr. MURPHY. Mr. Young.
[No response.]
Representative MCCORMACK. I have Mr. Young's proxy and he votes "aye."
Mr. MURPHY. Mr. Roncalio.
[No response.]
Mr. MURPHY. Mr. McCormack.
Representative MCCORMACK. Aye.
Mr. MURPHY. Mr. Brown.
Representative BROWN. Aye.
Mr. MURPHY. Mr. Anderson.
Representative ANDERSON. Aye.
Mr. MURPHY. Mr. Lujan.
Representative LUJAN. Aye.
Mr. MURPHY. Mr. Horton.
Representative HORTON. Aye.
Mr. MURPHY. Mr. Vice Chairman.
Representative PRICE. Aye.
Mr. MURPHY. Mr. Chairman.
Chairman PASTORE. Aye. And I have Mr. Jackson's proxy. He votes "aye."
Mr. MURPHY. Mr. Hinshaw.
[No response.]
Chairman PASTORE. Call out the vote.
Mr. MURPHY. It is unanimous—10 present and 2 proxies.
Chairman PASTORE. All right, you may continue.
Representative MCCORMACK. May we return to line 14, page 17?
Senator BAKER. We have voted to report whatever it is we end up with?
Representative MCCORMACK. That is right.
Representative PRICE. Mr. McCormack.
Representative MCCORMACK. Mr. Chairman, we were in the midst of a discussion of what the import of this change is. Mr. Chairman, I would like to address the members' attention to this, because I believe it is a matter of some substance.

I would like to ask if we can start the discussion over again so that the members may be able to follow it. So, if I may ask Mr. Brush to explain to us what the substance is here and what the purpose of this change is and what it is that we are doing.

Mr. BRUSH. As I indicated, this would be the first criterion on export licenses from the United States, and it would be the criterion that IAEA safeguards be applied on any export from the United

States of nuclear materials or equipment. As written, we perceive two problems with it.

First, the phrase "or their equivalent" seems to be uncertain. It is not defined. We do not know what it means. I believe I know what it means. I think it was intended to cover exports to the European community countries which have not yet signed up for IAEA safeguards although they are parties to the treaty and are working to get those safeguards. But, it does not say that. So, we felt that the lack of definition created a problem.

The second problem we see with it is that by its terms it would apply to exports to countries which are nuclear weapons states such as France and England. Of course, under the nonproliferation treaty, those countries are not required to accept IAEA safeguards and, therefore, imposing such a requirement could make it difficult for us to authorize exports to France and to England.

Therefore, we have suggested, as a substitute, language which would put this criterion in strict conformity with our obligations under the nonproliferation treaty.

Chairman PASTORE. Read your new language.

Mr. BRUSH. The first criterion for exports would be that "safeguards as required by article III, paragraph 2 of the treaty, shall be applied with respect to such material or equipment and to any special nuclear material produced through the use thereof." Article III (2) of the treaty of which we are a party imposes on the United States an obligation not to export nuclear materials or nuclear facilities to nonnuclear weapons states unless IAEA safeguards or international safeguards are applied.

Chairman PASTORE. What do you have to say to that, Mr. Parler?

Mr. PARLER. Mr. Chairman, these criteria, including the first one that we are talking about, were not drawn out of thin air by myself. I complied with your directions to get together with representatives from the executive branch. The Secretary of State, in his testimony on March 9, 1976, before the Senate Government Operations Committee, said:

> We have decided to adopt as a matter of national policy certain principles which would govern our future nuclear exports. The first one is provisions for the application of IAEA safeguards on exports of material, equipment and technology.

As far as the first point that Mr. Brush mentioned is concerned, "or their equivalent," those words were put in there to deal with the problem which representatives of the executive branch raised during the drafting session: that is, that even though the Euratom community and others maybe don't follow IAEA safeguards, it is the policy of the United States to require that equivalent safeguards be followed.

I might mention, also, that this first criterion is one of the principles that the Director of the Arms Control and Disarmament Agency stated in his most recent report to the Congress as follows: Under these principles, exporters must "apply international IAEA safeguards to all nuclear exports."

Chairman PASTORE. I think this is being very explicit, Mr. Brush. If the executive departments have already suggested this language, why don't we leave it the way it is rather than referring back to article III of a certain treaty? This satisfies assurance that IAEA safeguards,

or where you can't apply them, their equivalent—then we are the ones who dictate what the equivalency should be. Why isn't this well drafted?

Mr. Brush. Mr. Chairman, because in our judgment "or the equivalent" does not give us, the agency that must implement this, sufficient guidance. For example, it is unclear to us whether under this criterion as written we could authorize the export of enriched uranium to the United Kingdom for fueling a power reactor if that power reactor in the United Kingdom is not to be subject to IAEA safeguards; if it were to be subject only to the United Kingdom safeguards or Euratom safeguards.

Chairman Pastore. Before you go any further, "or their equivalent"—now, wouldn't that satisfy your objection? You are not applying the safeguards as prescribed by IAEA but you are saying "or their equivalent." In other words, if we determine that our supervision over the transfer of this nuclear material under certain conditions is equivalent to what the IAEA would do, it satisfies the requirements.

Mr. Brush. I believe that would be the case if it were clear from the legislative history that "or their equivalent" was intended to cover situations such as I mentioned.

Representative Anderson. Why can't the language of the report supply that deficiency? Leave the language as you suggested as it is and then the report language.

Chairman Pastore. That is what he has suggested now and I think that is all right.

Mr. Brush. There is one other case we have considered in writing this language, and that is the situation where reactor operators in the Western European countries may seek to obtain uranium enrichment services from the Soviet Union. As you know, we do not now have enriching capacity for any more uranium enrichment contracts. Some reactor operators in Western Europe may in the future desire to use U.S.-origin natural uranium, send it to the Soviet Union for enrichment and then it would come back to Western Europe for use in reactors. When it does that, it will, of course, be subject to our agreement with the Western European country.

As written, this would prohibit us from exporting that material to the Soviet Union without IAEA safeguards or their equivalent. That would be one other small point that we tried to take care of in this language cleanup. As written, the bill would appear to preclude that type of arrangement.

Representative McCormack. Mr. Chairman?

Mr. Parler, obviously, the administration, in sending down the words "or its equivalent," is trying to cover this. Does this expose the administration to litigation on the interpretation of what equivalency would be? Is this a potential booby trap?

Mr. Parler. I suppose any words in a piece of legislation on a controversial subject would expose the Government or the participants to litigation. The best way I know to deal with that is to use the most precise words you can in the statute or the bill. If you can't do that, give as clear a legislative history background as you can in the report. I think if the bill would try to spell out in the bill what "or their equivalent" means, that the potential for ambiguity and litigation would be increased.

Senator SYMINGTON. Mr. Chairman, there is one point before leaving that I would like to bring up. That is, when you are getting into the field of agreements and treaties on nuclear matters you are getting into an area of concern of the Foreign Relations Committee in the Senate and the International Relations Committee in the House.

In the last few months, the Government Operations Committee—which I served on for a good many years and which is a fine committee, but in effect is an ad hoc committee—have almost, you might say, taken a lead in the development of interest in this matter through Senators Ribicoff, Glenn, and Percy. Actually, however, if there is going to be an agreement or treaty, a formal agreement, I think its review and approval has to end up somewhere in and with the Joint Committee and the Foreign Relations Committee.

Chairman PASTORE. That is right.

Senator SYMINGTON. We should get some language in this bill along those lines. Otherwise, we will get into a hassle with the Government Operations Committee, which is getting more into the picture than they normally would. We can do this, provided we are clear in our mind as to what we want to do.

I have discussed this to some extent with the chairman and Senator Baker. I know that any formal agreement or any treaty incident to the most important subject in the world today, which is control of nuclear proliferation, in the long run has to go to the Foreign Relations Committee, as I see it.

Senator BAKER. Mr. Chairman, I agree with Senator Symington. I think we are getting into a traditionally delicate matter; that is, jurisdiction of the committees. But, with the enormity and the importance of nuclear proliferation, there is no way in my judgment that we cannot take account of the responsibility of the Foreign Relations Committee and International Relations Committee.

The only thing that concerns me is whether or not we put appropriate safeguards on the length of time that one of those committees could have to act on that matter, and that we preserve fundamental jurisdiction in this committee.

When we do those things, not only would I be agreeable to it but I would enthusiastically support it.

Chairman PASTORE. That is the Symington amendment.

Senator BAKER. Why not add it onto this bill?

Senator SYMINGTON. I would like to add one more point, if I may, to show it is a practical matter. At one point in an executive hearing of the Foreign Relations Committee, I personally asked the Secretary of State a few months ago why we agreed to allow the Germans to make the deal with the Brazilians on the sale of a reprocessing plant, which is the most dangerous development we have had since I have been involved in this situation.

He said he did his best, this country did its best to stop it. A few days later, the Chancellor of Germany, Dr. Schmidt, said they had had no complaint from anybody at any time on this matter.

Then, when we took that up with the State Department, they said that there was a breakdown in communications, which seemed like a sorry explanation to me. To be frank, if you have both these committees working together on this sort of thing, I think we will get a lot

farther than we would if we just have the one, and I think it is proper anyway under the laws of Congress and the Constitution.

Representative PRICE. Without objection. Does that complete the technical amendments?

Mr. PARLER. Not the pending one which Mr. McCormack raised.

Representative PRICE. Is this a technical amendment?

Mr. PARLER. It was included in the group.

Representative PRICE. Mr. Brown, were you satisfied with it?

Representative BROWN. Yes; I am satisfied.

Representative PRICE. Then, we can take them en bloc.

Mr. PARLER. The pending question is the one Mr. McCormack raised about the particular amendment on page 17, line 14.

Representative MCCORMACK. Mr. Chairman, I can explain it and I think I have a solution. I think we have worked out something here.

My recommendation will be to take some words from both of these recommendations so that we would have the words "assurance that IAEA safeguards, as required by article III, section 2 of the treaty, shall be applied." Is that acceptable to both of you gentlemen?

Mr. PARLER. Yes, sir.

Mr. BRUSH. Yes, sir.

Representative MCCORMACK. Mr. Chairman, I move we accept those.

Representative PRICE. Without objection.

Chairman PASTORE. What do we do about this matter raised by Mr. Symington?

Senator BAKER. Mr. Chairman, if Congressman Anderson does not object, and Congressman Price, I would like to see it added.

Representative ANDERSON. I have no objection. Under the Constitution, the Foreign Relations Committee will get the treaties anyway. Under the International Agreement for Cooperation, as long as the wording is such that it uses Senator Baker's expression, the final jurisdiction of this committee is preserved and we have the final signoff. I certainly have no objection to having them referred to the Senate Foreign Relations Committee for such disposition or use as they may care to make on the agreement.

I think the amendment ought to make it clear that the final signoff on the agreement, whatever section it is, 123, is preserved in this committee.

Senator SYMINGTON. May I read briefly our idea about it, in order to get your suggestions and advice and criticism?

In the first sentence, on page 12, between lines 10 and 11, insert the following:

In the first sentence of such subsection, strike out all after the words "has been submitted to the Congress" and insert in lieu thereof the following, "and refer jointly to the Joint Committee on Atomic Energy for its consideration of such matters as fall within its jurisdiction under section 202 of this act, and the Committee on International Relations of the House of Representatives and Committee on Foreign Relations of the Senate for their consideration of all other matters if a period of 60 days has elapsed while Congress is in session. In computing such 60 days, there shall be excluded the days in which either House is not in session because of adjournment of more than 3 days. Any such proposed agreement for cooperation shall not become effective if during such said 60-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation, provided that prior to the lapse of the first 45 days of any such 60-day period such committee

shall submit reports to Congress of their views and recommendations respecting the proposed agreement and accompanying proposed concurrent resolution stating in substance that the Congress favors or does not favor, as the case may be, the proposed agreement for cooperation."

Everybody knows the committee has the final say as to what shall be done. I can't imagine the Foreign Relations Committee disagreeing with the Joint Committee on the matter. If it gets to be a formal agreement or treaty, it has to go to the Foreign Relations Committee.

Chairman PASTORE. A treaty does, but you see agreements for cooperation as a rule do not. It is prescribed in section 123. I quite agree with you, because, first of all, in the regular procedure that is followed, I guess contact is made with the foreign government by the State Department. Then ERDA gets into it and negotiates it because, after all, they have the expertise. The State Department is already consulted with reference to the agreement that ultimately comes up here after the President, of course, sends it up.

Now, the next question is, it is true that from an administrative standpoint the State Department is consulted, but there is nothing in our law that gives the same privilege to the Foreign Relations Committee. That is your complaint, Mr. Symington. Even though we have oversight jurisdiction over ERDA with reference to atomic energy and over the Nuclear Regulatory Commission, the fact still remains that the Foreign Relations Committee and the International Relations Committee of the House have oversight over the State Department and, therefore, it ought to be a cooperative effort.

I see no objection to the amendment at all. I don't think it takes anything away from us. It just sets up a partnership between the two committees. I don't see anything wrong with it.

Representative LUJAN. I have one question on it. Does that add an additional provision that does not now exist that one of the committees has to take a positive action where perhaps, as the law is now, we don't have to take positive action—just disagreement?

Chairman PASTORE. The Congress is the ultimate arbiter of whether or not the agreement will be accepted. All we do is recommend it.

Mr. PARLER. The requirement for this committee to take positive action is in the law now; it was included in 1974 in section 123 d., of the Atomic Energy Act of 1954 by Public Law 93–485.

Chairman PASTORE. Which I suggested?

Mr. PARLER. Yes, sir.

Chairman PASTORE. You see, now you have to take positive action. Somehow, we ought to include the Foreign Relations Committee of the Senate and also the comparable committee of the House.

Representative LUJAN. Does the amendment include the Foreign Relations Committee taking positive action, or just this committee?

Representative ANDERSON. That is the important question.

Chairman PASTORE. They can take positive action. If they are negative and we are positive, let the Congress decide it.

Senator SYMINGTON. Then you get into the way it has been handled in the last two administrations as to what is a treaty and what is an agreement. I will be off the committee next year. Senator Baker will be back on the Foreign Relations Committee. He has an intense interest in this committee. The way we get mixed up, or messed up is a

better word, is when something is done that we don't know about because it is an agreement. Whether it is formal or informal, it is an agreement, not a treaty, even though in many cases—I say that after a good many years on the Foreign Relations Committee—it should have been a treaty.

Chairman PASTORE. The administration is now negotiating with reference to a reactor for Egypt. It was because of the publicity that was given to it some few years ago that I introduced this amendment in order to tighten it up whereby we would have to take positive action.

Representative LUJAN. This committee?

Chairman PASTORE. This committee would have to take positive action before the agreement could be consummated.

Now the question arises that this is a very delicate diplomatic question, too. I think it would be fair to the Congress to have the committees that have to do with foreign affairs become parties to whatever happens. I see nothing wrong with it. I think we ought to include it.

Representative LUJAN. You are saying we have to have three positive actions instead of one according to the amendment—one by the House International Relations, one by the Senate, and one by the——

Chairman PASTORE. We report to both branches, you see, both the House and Senate at the same time, as to our recommendation as to these bilateral agreements. The next question is what is the obligation of the International Relations and Senate Foreign Relations Committees? So, I think they ought to come into the picture.

Senator SYMINGTON. We are not asking for the Armed Services Committee to be included here, but we do get briefed in the Foreign Relations Committee pretty thoroughly by the CIA. This is an open hearing, but the recent development in China, to put it mildly, is something that this committee would be intensely interested in, as well as the Foreign Relations Committee. So I think you have to cut in some committee, and I would much rather see the Foreign Relations Committee cut in with the Joint Committee than I would the Armed Services Committee, both of which I serve on.

Representative ANDERSON. I have the language of section 123(d) before me, which does require that the proposed agreement for cooperation be submitted, as the language now reads, "to the Congress, and referred to the Joint Committee." I have no objection at the point to amending the law "to provide to the Joint Committee and the Senate Foreign Relations Committee and the House International Relations Committee."

Then when you go down three or four lines and get to the point where it says, "Any such proposed agreement for cooperation shall not become effective if during such 60-day period the Congress passes a concurrent resolution stating in substance it does not favor the proposed agreement," I would like to put in there that it shall not become effective if the Joint Committee on Atomic Energy reports adversely on the resolution and the Congress then adopts that.

Chairman PASTORE. We could even report favorably and it might be the right thing. We are reporting favorably not because of the political questions involved but because the proper safeguards have been taken.

Then you have the surmounting question, is this the right thing for us to do to have a reactor for political reasons in another country? That is your political question. That is your foreign relations question.

I think what you ought to do here is continue what you have said there. There is a matter of draftsmanship now. I think we ought to leave it up to the staff to draw that. All we want to do is to say that not only will this committee have to make a recommendation to the Congress as a body, as a whole, but also the Foreign Relations Committee and the International Relations Committee of the House.

I see nothing wrong with it, gentlemen. From now on, with reference to the Middle East, with reference to whether or not you are going to sell a reactor to Egypt or whatever the case might be, you not only have the question of safeguards which comes under the aegis of the ERDA, but you also have the question of whether or not it is the right thing to do. Now the State Department has already told ERDA that it is the right thing to do, but the question is that that decision has never been reviewed by the Foreign Relations Committee.

Senator Symington. Mr. Chairman, I would like to add one more point and then I will keep still about it.

During the Second World War, I was in the worst raid that London ever had and the worst raid that Birmingham ever had. London was very badly hurt and Birmingham was nearly destroyed. The bombs dropped there were a quarter of a ton each. Less than 5 years later, the one nuclear bomb dropped on Hiroshima was about the same as 15,000 tons of TNT.

In the declassified pamphlet released in the last few months by Dr. Ikle of ACDA, the largest ever dropped was 59 million tons, by the Soviets.

It seems to me we are marching toward Armageddon every day.

Chairman Pastore. Why don't we resolve this? I don't know if you want to meet again this afternoon, but the point is that we are all in agreement. Why don't we leave it up to the staff to draw it.

Representative Horton. Do we have to refer it sequentially?

Chairman Pastore. Sequentially.

Representative Horton. Would it come to this committee first?

Chairman Pastore. It will go to the committees at the same time.

Mr. Parler. The way the amendment is drafted it would be a joint referral.

Chairman Pastore. That is right.

Mr. Parler. So, the three committees could start off at the same time. One would not have to wait for the other and then after the passage of the 45 days all of the committees would report to the Congress.

Chairman Pastore. That is right.

Then the Congress as a whole would decide what to do. If there was a positive and a negative, we would have to take sides.

Representative Horton. I am wondering if it would be better to come back to the Joint Committee as a clearinghouse and have us report it with the other committees.

Representative Anderson. What if we don't agree with the other committees?

Chairman Pastore. That complicates it. I think under the circumstances the best thing to do is to do it simultaneously.

Senator BAKER. As long as there is a time limitation and as long as none of the three committees can intentionally delay completion of it by the Congress, I see no particular mischief. My preference is to break it down into two parts, that is to say, that there would be a separate referral and separate report to the Congress and Senate on treaty matters and that the Joint Committee would seek and receive the advice and views of the other committees on nontreaty matters and then report them in turn to the Congress mandatorily.

But to do that would be to innovate a new technique, Mr. Chairman, which I am sure our colleagues on Foreign Relations would not agree to.

I think as a practical matter the best thing to do is to go with the Symington amendment in this form and make sure the report language reflects the fact that we are not ceding primary jurisdiction of this committee.

Chairman PASTORE. I think we ought to include the Foreign Relations Committee in the same responsibility, the same limitations as prescribed by the law, that, within a certain period of time, they have to act and report back to the Congress what their recommendation is. Then the Congress at that point takes a vote. As I understand, under the law they have to take a vote within 5 days before the 60-day period is up.

Is that correct?

Mr. PARLER. That is correct.

Chairman PASTORE. That will apply to all committees?

Mr. PARLER. That is correct.

Chairman PASTORE. It is not a question of dillydallying. They can act independently of us. We can act independently of them. They make their recommendation; we make our recommendation. Then you take the vote on the floor of the Senate or the House.

Mr. PARLER. The amendment as drafted does explicitly reserve to the Joint Committee on Atomic Energy the jurisdiction it has under the Atomic Energy Act in the nuclear area.

Representative ANDERSON. Mr. Chairman, although we have talked about the remaining five amendments as substantive amendments, I have had a chance to go over all of them, and Mr. Price and I, of course, are the ones who put this bill in the House of Representatives.

The rationale for all of those amendments is very well set forth and explained, in my judgment, in the five-page letter that went to the chairman and to Mr. Price and myself and I think Mr. Baker from Dr. Seamans, the Administrator of ERDA.

I would be prepared to accept the amendments and to move that they be accepted en bloc.

Senator SYMINGTON. Has Dr. Seamans agreed to them?

Representative ANDERSON. Yes.

Senator SYMINGTON. I second the motion.

Chairman PASTORE. All in favor, say "aye."

All opposed?

It is carried.

Representative PRICE. Mr. Chairman, I make the same motion on the technical amendments that are remaining.

Chairman PASTORE. Do I hear the second?
Representative HORTON. Second.
Chairman PASTORE. All in favor, signify by saying "aye."
Opposed?
That is carried.
How about the Symington amendment?
Senator SYMINGTON. I move that we do it, the way I read it.
Chairman PASTORE. Any remarks on that?
Representative HORTON. Seconded.
Representative MCCORMACK. There is a question on technique, that is, neither House can act without reports from both the Joint Committee and the appropriate committee?
Chairman PASTORE. They are compelled under the law; under the law, it is submitted within 45 days; the committees have to refer it back to the floor where it can be debated, and within the 5 days remaining before the 60-day period has lapsed you have to vote.
Representative MCCORMACK. That is correct.
What I am getting at is, they don't vote in either House until they have the report of both committees. They must have both before they can vote.
Chairman PASTORE. In other words, we impose upon all committees the same provisions as to reporting.
Mr. PARLER. That is correct.
Chairman PASTORE. You have heard that.
What is your pleasure?
Senator SYMINGTON. I move we adopt it.
Representative HORTON. Seconded.
Chairman PASTORE. All those in favor, signify by saying "aye."
All those opposed?
The bill is reported out to the House.
Representative ANDERSON. Could I for the record really express my gratitude to ERDA and to Dr. Seamans and all of the others who have worked with me on this legislation? They have made it very clear that they want a bill and they have not attempted to delay or to obfuscate.
Mr. BAKER. Didn't we report this to the Senate also?
Chairman PASTORE. The bill will be reported to both the House and Senate.[1]
Representative MCCORMACK. I think it should be called the Anderson-Price bill, not Price-Anderson, so that we don't have two Price-Andersons.
[Whereupon, at 12:05 p.m., the Joint Committee concluded.]

[1] S. 3853, an identical original bill, was reported to the Senate.

APPENDIX 1

94TH CONGRESS
2D SESSION

S. 1439

[Report No. 94–875]

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1975

Mr. PERCY (for himself, Mr. GLENN, and Mr. RIBICOFF) introduced the following bill; which was read twice and referred to the Committee on Government Operations

MAY 13, 1976

Reported by Mr. GLENN, with an amendment, and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 13, 1976

By unanimous consent referred jointly to the Joint Committee on Atomic Energy and the Committee on Foreign Relations for a period of 60 days

A BILL

To reorganize certain export functions of the Federal Government to promote more efficient administration of such functions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That this Act may be cited as the "Export Reorganization Act of 1975".~~

~~STATEMENT OF PURPOSE~~

~~SEC. 2. (a) The Congress hereby finds and declares—~~

~~(1) that it is in the interest of the economy and effectiveness of the executive branch, and in the interest of the effectiveness of congressional oversight, to reor-~~

ganize and centralize certain export licensing functions of the Government in a single agency to which all persons and commercial interests seeking to engage in foreign commerce can apply;

(2) that the Department of Commerce now has the responsibility for providing such a centralized function by issuing most export licenses required by the laws of the United States;

(3) that the Department of State, the Department of the Treasury, the Energy Research and Development Administration, and the Nuclear Regulatory Commission now exercise export licensing and approval authorities that are substantially similar to the authorities now exercised by the Department of Commerce;

(4) that these licensing and approval authorities should be transferred to the Department of Commerce, with appropriate coordination with other agencies to insure that the national interest is protected in the licensing and approval of exports;

(5) that the exporting of nonmilitary nuclear facilities, material, and technology involves special problems related to common defense and security and public health and safety posed by the international proliferation of plutonium and other special nuclear materials, and by

~~their potential conversion by nations and subnational groups into explosive weapons or dispersal devices;~~

~~(6) that the licensing of such exports should be made contingent upon a determination that safeguards against theft, diversion, and sabotage in recipient nations are at least substantially comparable to the safeguards that are required in order to obtain a commercial nuclear license in the United States;~~

~~(7) that determinations of safeguards comparability should be made by the Nuclear Regulatory Commission, the agency responsible for protecting common defense and security and public health and safety through the issuance of commercial nuclear licenses in the United States, and~~

~~(8) that commercial nuclear exports by the United States should be made in the context of meaningful international controls, and that consideration should be given to the internationalization of all strategically significant aspects of the nonmilitary nuclear fuel cycle.~~

~~DEFINITIONS~~

~~SEC. 3. As used in this Act, the term—~~

~~(1) "atomic energy facility or material for use for nonmilitary purposes" means any production or utilization facility, any special nuclear material, any source~~

material or any byproduct material as defined in section 11 of the Atomic Energy Act of 1954, to be used for nonmilitary purposes;

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Commerce;

(4) "function" includes power and duty;

(5) "nonmilitary atomic energy technology" means any technology which the Commission determines to relate to atomic energy facilities or materials for use for nonmilitary purposes;

(6) "safeguards" means materials accountability and physical security; and

(7) "Secretary" means the Secretary of Commerce.

TRANSFERS TO THE SECRETARY OF COMMERCE.

SEC. 4. (a) (1) There are transferred to the Secretary of Commerce, and the Secretary shall perform, such functions of the Secretary of State under section 414 of the Mutual Security Act of 1954 as relate to the approval for export (including the issuance of export licenses) of arms, ammunition, and the implements of war.

(2) No export license for arms, ammunition, and the implements of war which prior to the effective date of this Act would have been issued by the Secretary of State for

~~arms, ammunition, and the implements of war may be issued by the Secretary unless the Secretary of State has given written approval for the issuance of such a license.~~

~~(b) (1) There are transferred to the Secretary, and the Secretary shall perform, such functions of the Secretary of the Treasury under the Trading With the Enemy Act as relate to the issuance of export licenses.~~

~~(2) No export license which prior to the effective date of this Act was issued by the Secretary of the Treasury under the Trading With the Enemy Act may be issued by the Secretary unless the Secretary of the Treasury has given written approval for the issuance of such a license.~~

~~(c) (1) There are transferred to the Secretary, and the Secretary shall perform, such functions of the Nuclear Regulatory Commission under sections 53 (a), 62, 82 (c), 103, and 104 of the Atomic Energy Act as relate to the issuance of export licenses for atomic energy facilities or materials for use for nonmilitary purposes.~~

~~(2) No export license for atomic energy facilities or materials for use for nonmilitary purposes may be issued after the effective date of this Act unless the provisions of section 7 (a) of this Act are met.~~

~~(d) (1) There are transferred to the Secretary, and the Secretary shall perform, such functions of the Administrator of the Energy Research and Development Administration as~~

~~relate to the approval for export of nonmilitary atomic energy technology.~~

~~(2) No approval for export may be given for nonmilitary atomic energy technology after the effective date of this Act, unless the provisions of section 7(a) of this Act are met.~~

~~TRANSFER TO THE SECRETARY OF STATE~~

~~SEC. 5. There are transferred to the Secretary of State, and the Secretary shall perform, all functions of the Administrator of the Energy Research and Development Administration relating to the development of international agreements for cooperation on atomic energy facilities or materials for use for nonmilitary purposes and nonmilitary atomic energy technology.~~

~~TRANSFERS TO THE NUCLEAR REGULATORY COMMISSION~~

~~SEC. 6. (a) There are transferred to the Commission, and the Commission shall perform, such functions of the Administrator of the Energy Research and Development Administration as relate to safeguards for atomic energy facilities or materials for use for nonmilitary purposes and nonmilitary atomic energy technology which are to be exported.~~

~~(b) There are transferred to the Commission, and the Commission shall perform, such functions of the Secretary of Transportation under sections 832 and 833 of title 18, United~~

States Code, that relate to the transportation of radioactive materials.

SAFEGUARDS COMPARABILITY

SEC. 7. (a) No export license for the exportation of atomic energy facilities or materials for use for nonmilitary purposes may be issued by the Secretary, and no approval for the export of nonmilitary atomic energy technology may be given by the Secretary, unless the Commission determines that the recipient country to which any such technology, facility, or material is to be exported has safeguards substantially at least comparable to safeguards required by the Commission in the United States.

(b) The Commission shall establish criteria for use in the development of international agreements for cooperation with foreign countries relating to safeguards with respect to atomic energy facilities or materials for use for nonmilitary purposes and nonmilitary atomic energy technology.

(c) (1) The Commission shall establish and operate a training program to be made available to persons from countries which purchase licensed atomic energy facilities or materials for use for nonmilitary purposes from any person in the United States. Any such program shall include the most advanced techniques and technology for materials accounting and physical security, consistent with national security interests of the United States.

~~(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.~~

~~NUCLEAR PROLIFERATION ASSESSMENT STATEMENT~~

~~SEC. 8. (a) The Commission shall, with respect to each determination pursuant to section 7(a) involving strategically significant atomic energy facilities or materials for use for nonmilitary purposes and nonmilitary atomic energy technology, prepare and furnish a nuclear proliferation assessment statement to the Arms Control and Disarmament Agency.~~

~~(b) In any case of a determination under section 7(a) to which subsection (a) applies, the Commission shall notify the Arms Control and Disarmament Agency of the proposed approval or license and offer that Agency an opportunity to comment on such approval or license.~~

~~SAFEGUARDS STUDY~~

~~SEC. 9. (a) (1) The Commission shall conduct a thorough study of the safeguards guidelines and regulations for atomic energy facilities or materials for use for nonmilitary purposes established by the United States and by the International Atomic Energy Agency, with special consideration of the differences in such safeguards.~~

~~(2) Not later than nine months from the date of enactment of this Act, the Commission shall prepare and transmit to the President and the Congress a report on the~~

~~study required by this subsection, together with such recommendations, including recommendations for the upgrading of such safeguards, as the Commission deems advisable.~~

~~(b) (1) The Commission shall conduct a thorough study of the feasibility of internationalization of all strategically significant aspects of the nonmilitary atomic energy fuel cycle.~~

~~(2) Not later than nine months from the date of enactment of this Act, the Commission shall prepare and transmit to the President and the Congress a report on the study required by this subsection, together with such recommendations as the Commission deems advisable.~~

~~(c) Such sums as may be necessary are hereby authorized to carry out the provisions of this section.~~

~~TRANSFER OF PERSONNEL AND PROPERTY~~

~~SEC. 10. (a) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this Act, are transferred to the Secretary, to the Secretary of State, or to the Commission, as the case may be.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, personnel engaged in functions transferred under~~

this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(2) The transfer of personnel pursuant to subsection (a) shall be without reduction in classification or compensation for one year after such transfer.

SAVINGS PROVISIONS

SEC. 11. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by the Secretary of State, or by the Commission, as the case may be, or by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent

~~that they relate to functions so transferred, shall be continued before the Department, the Department of State, the Energy Research and Development Administration, or the Commission, as the case may be. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by the Secretary of State, or by the Commission, as the case may be, or by a court of competent jurisdiction, or by operation of law.~~

~~(c) (1) Except as provided in paragraph (2)—~~

~~(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and~~

~~(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.~~

~~No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this~~

~~Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department, the Department of State, or the Commission, as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.~~

~~(2) If before the date on which this Act takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—~~

~~(A) such agency or office, or any part thereof, is transferred to the Secretary, the Secretary of State, or the Commission, as the case may be, or~~

~~(B) any function of such agency, office, or part thereof, or officer is transferred to the Secretary, the Secretary of State, or the Commission, as the case may be,~~

~~then such suit shall be continued by the Secretary, the Secretary of State, or the Commission, as the case may be (except in the case of a suit not involving functions transferred to the Secretary, the Secretary of State, or the Commission, as the~~

~~case may be, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).~~

~~(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Department, the Department of State, or the Commission, or officer in which such function is vested pursuant to this Act.~~

~~(e) Orders and actions of the Secretary, the Secretary of State, or the Commission, as the case may be, in the exercise of functions transferred under this Act shall be subject to judicial review in the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary, the Secretary of State, or the Commission, as the case may be.~~

~~(f) In the exercise of the functions transferred under this Act, the Secretary, the Secretary of State, or the Commission, as the case may be, shall have the same authority as that vested in the agency or office, or part thereof, ex-~~

~~exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.~~

~~EFFECTIVE DATE~~

~~SEC. 12. This Act, other than this section, shall take effect ninety days after the date of enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.~~

That this Act may be cited as the "Export Reorganization Act of 1976".

STATEMENT OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that it is in the interest of the economy and effectiveness of the executive branch, and in the interest of the effectiveness of congressional oversight, to reorganize and centralize certain export control functions of the Government;

(2) that the exporting of nonmilitary nuclear equipment, material, and technology involves special problems related to foreign policy and to common defense and security and public health and safety posed by the international proliferation of plutonium and other special nuclear material, and by their potential conversion by

nations and subnational groups into explosive weapons or dispersal devices;

(3) that the approval and licensing of such exports should take into account the adequacy of safeguards against theft, diversion, and sabotage in recipient nations;

(4) that Congress established the Nuclear Regulatory Commission as the agency responsible for protecting the common defense and security and public health and safety through the issuance of commercial nuclear licenses both domestically and for export; and

(5) that the Department of State, the agency principally responsible for the development and implementation of foreign policy, should have the principal responsibility for the negotiation and renegotiation of international agreements for civil nuclear cooperation and of subsequent arrangements made pursuant to the agreements and should play an integral role in the approval for export of nonmilitary nuclear equipment, technology, and material; and

(6) that commercial nuclear exports by the United States should be made in the context of meaningful international controls, and that consideration should be given to the internationalization of all strategically significant aspects of the nonmilitary nuclear fuel cycle.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "atomic energy facility or material for use for nonmilitary purposes" means any production or utilization facility, any special nuclear material, any source material or any byproduct material as defined in section 11 of the Atomic Energy Act of 1954, to be used for nonmilitary purposes;

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "function" includes power and duty;

(4) "nonmilitary atomic energy technology" means any technology which the Commission determines to relate to atomic energy facilities or materials for use for nonmilitary purposes; and

(5) "nonnuclear weapons country" means any country that had not detonated a nuclear device prior to the time the Treaty on the Non-Proliferation of Nuclear Weapons came into force;

(6) "nuclear weapons country" means any country that detonated a nuclear device prior to the time the Treaty on the Non-Proliferation of Nuclear Weapons came into force; and

(7) "safeguards" includes materials accountability and physical security.

TRANSFER TO THE SECRETARY OF STATE

SEC. 4. (a) There are transferred to the Secretary of State, and the Secretary shall perform, such functions of the Administrator of the Energy Research and Development Administration as relate to negotiating, renegotiating and entering into international agreements for cooperation on atomic energy facilities, components or materials for use for nonmilitary purposes and nonmilitary atomic energy technology, and to negotiating, renegotiating and entering into all subsequent arrangements made pursuant to the agreements: Provided, That the Secretary shall obtain the close cooperation and the technical advice and assistance of the Administrator in negotiating, renegotiating, and entering into such agreements and such subsequent arrangements.

(b)(1) No agreement or subsequent arrangement under this section shall be negotiated, renegotiated, or entered into unless the Secretary of State has consulted with, and has taken into full consideration the recommendations and policies of, the Commission applying to the licensing for export of atomic energy facilities, components and materials for use for nonmilitary purposes or the approval for export of nonmilitary atomic energy technology, which are the subject of such agreement or arrangement.

(2) The Commission shall furnish a copy of its views to the Congress when such a proposed agreement for cooperation

is submitted to the Congress pursuant to section 123(d) of the Atomic Energy Act of 1954, as amended.

(c)(1) The Secretary of State shall provide the Commission with appropriate data and recommendations, subject to requests for additional data and recommendations as required by the Commission, for the performance of its functions under sections 53(a), 62, 82(c), 103, 104, and 109(b) of the Atomic Energy Act as relate to the issuance of export licenses for atomic energy facilities, materials or components for use for nonmilitary purposes, and sections 4(b), 5(a). and 6(a) of this Act as relate to the furnishing to the Secretary of State and to the Congress the recommendations and policies of the Commission relating to negotiating, renegotiating, and entering into international agreements for cooperation and subsequent arrangements made pursuant to the agreements by the Secretary, the approval for export by the Commission of atomic energy technology for use for nonmilitary purposes, and the taking into account by the Commission of the adequacy of safeguards on all atomic energy exports for use for nonmilitary purposes.

(2) The Secretary of State shall obtain the data and recommendations referred to in paragraph (1) from the Department of State and other such agencies of the Federal Government as he deems appropriate and furnish them to the Commission, except as provided in section 7(b).

TRANSFERS TO THE NUCLEAR REGULATORY COMMISSION

SEC. 5. (a) There are transferred to the Commission, and the Commission shall perform, such regulatory functions of the Administrator of the Energy Research and Development Administration as relate to the approval for export of nonmilitary atomic energy technology.

(b) There are transferred to the Commission, and the Commission shall perform, such regulatory functions pursuant to section 109(b) of the Atomic Energy Act as presently exercised by the Secretary of Commerce with respect to the licensing for export of nuclear components.

SAFEGUARDS AND OTHER FUNCTIONS OF THE NUCLEAR REGULATORY COMMISSION

SEC. 6. (a) The Commission, in considering applications for licenses for export of atomic energy facilities, components, and materials for use for nonmilitary purposes and applications for approval for export of nonmilitary atomic energy technology, and in making determinations relating to common defense and security and public health and safety under section 103 of the Atomic Energy Act, shall take into account the adequacy of safeguards in the recipient country to which any such facility, components, material, or technology is to be exported to meet the risk of nuclear diversion, theft, or sabotage in the recipient country.

(b)(1) Within ninety days of the effective date of this

Act, the Commission shall promulgate regulations relating to what it deems to be appropriate issuance of public notice, access to nonclassified information, scheduling of public hearings, and recording of minutes and votes of the Commission with respect to applications for licenses for export of atomic energy facilities, components, and materials for use for nonmilitary purposes and applications for approval for export of nonmilitary atomic energy technology.

(2) The export-licensing decisions of the Commission shall be announced in writing, and, where appropriate, accompanied by a written opinion, including any concurring or dissenting view of the Commissioners. A detailed summary of the provisions of any such license approved by the Commission shall be published in the Federal Register as soon as practicable after such approval by the Commission, together with a description of the safeguards required to be followed in connection with such license and use of such facilities, components, material or technology.

(c)(1) No application for a license for export of atomic energy facilities, components, or material for use for nonmilitary purposes or an application for approval for export of nonmilitary atomic energy technology shall be approved by the Commission unless the Secretary of State has given written approval for the issuance of such a license or the granting of such approval.

(2) Any special nuclear material distributed by the Energy Research and Development Administration to any nation or group of nations for nonmilitary purposes shall require the issuance of a license by the Commission, subject to the written approval of the Secretary of State, as provided in this section.

(3) In the event that the Commission does not agree with the Secretary that an application should be approved, or the Commission determines that an application raises substantial issues that the Commission cannot resolve, the Commission shall defer approval of the application for sixty days hence, pending a review by the Congress.

(4) In the event that the Commission exercises the option pursuant to paragraph (3) it shall furnish the Congress a complete record pertaining to the particular application, including a report explaining its action and any findings made pursuant to subsection (a) and to section 103 of the Atomic Energy Act of 1954, as amended, and all data, findings, and recommendations furnished to the Commission by the executive agencies pursuant to sections 4 and 7 of this Act. The aforementioned application and accompanying documentation shall be submitted immediately to the Congress and referred to the Joint Committee on Atomic Energy for a period of sixty days while Congress is in session (in computing such sixty days, there shall be excluded the days on

which either House is not in session because of an adjournment of more than three days), and the Commission shall approve and issue the license for export of atomic energy facilities or materials for use for nonmilitary purposes or approve the export of nonmilitary atomic energy technology, as the case may be, immediately upon expiration of the sixty-day period unless during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed export. Prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed export and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed export. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

(d) There is authorized to be appropriated to the Commission an additional sum of $1,400,000 for fiscal year 1977, such sum to remain available until expended, for the purpose of exercising its responsibilities relating to safe-

guards for atomic energy facilities, components and materials for use for nonmilitary purposes and nonmilitary atomic energy technology which are to be exported.

NUCLEAR PROLIFERATION ASSESSMENT STATEMENT

SEC. 7. (a) The Commission shall, with respect to its functions pursuant to section 4(b) involving all international agreements for cooperation, and those subsequent arrangements made pursuant to the agreements which the Commission determines to be of strategic significance, and pursuant to section 6(a) involving what the Commission determines to be strategically significant atomic energy facilities, components, or materials for use for nonmilitary purposes and nonmilitary atomic energy technology, obtain a Nuclear Proliferation Assessment Statement from the Arms Control and Disarmament Agency.

(b) The Arms Control and Disarmament Agency shall prepare and furnish such Nuclear Proliferation Assessment Statements directly to the Commission, to the Secretary of State, and to the Congress.

(c) The Commission shall notify the Agency when it requires that a Nuclear Proliferation Assessment Statement be prepared by the Agency, or the Director of the Agency may prepare such a statement at his own discretion. Such statement shall be furnished by the Agency to the Commission by a mutually agreeable date.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 8. (a) The Energy Research and Development Administrator, in consultation with the Commission, shall establish and operate a training program to be made available to persons from countries which purchase licensed atomic energy facilities, components, or materials for use for nonmilitary purposes or nonmilitary atomic energy technology from any person in the United States. Any such program shall include training in the most advanced safeguards techniques and technology, consistent with national security interests of the United States.

(b)(1) The Commission shall conduct a thorough, continuing study of the safeguards guidelines and regulations for atomic energy facilities, components, and materials for use for nonmilitary purposes and nonmilitary atomic energy technology established by the United States and by the International Atomic Energy Agency, with special consideration of the differences and interactions between such safeguards.

(2) As soon as practicable after the end of each fiscal year, the Commission shall prepare and transmit to the President and the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for the upgrading of such safeguards, as the Commission deems advisable.

(c) The President is directed to review all activities

of Government agencies relating to limiting the spread of nuclear weapons and to make an annual report to Congress not later than December 31 on the Government's efforts to control proliferation, such report to include but not be limited to discussion of—

(1) promoting cooperative arrangements between the United States and other nations for the purpose of preventing the stockpiling of nuclear weapons material outside the nuclear weapons nations;

(2) promoting adherence to the Treaty for the Non-Proliferation of Nuclear Weapons and discouraging or prohibiting nuclear sales to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and nuclear explosions;

(3) strengthening the safeguards of the International Atomic Energy Agency, ensuring uniform application of such safeguards and promoting promptness and openness in the verification and reporting procedures of the Agency;

(4) promoting an international convention or similar mechanism for establishing and enforcing minimum physical security standards for preventing acts of sabotage and theft with respect to civilian nuclear equipment and material;

(5) promoting an international convention or simi-

lar mechanism for recovering diverted or stolen nuclear material, for imposing swift and strict sanctions against all nations that engage in unauthorized use of nuclear material or conduct unauthorized nuclear explosions, and for dealing with subnational or criminal groups engaging in acts of sabotage or of theft or using or threatening to use nuclear explosive or dispersal devices.

(d) Section 307(c) of the Energy Reorganization Act of 1974 is amended by adding a paragraph at the end thereof, as follows:

"In addition, the Commission report shall include a full summary and analysis of the Commission's recommendations and actions in regard to nonmilitary nuclear exports, with emphasis on the adequacy of safeguards to ensure that such exports are not misused for nuclear-explosion programs.".

(e) Such sums as may be necessary are hereby authorized to carry out the provisions of this section.

IDEA SAFEGUARDS ACTIVITIES

SEC. 9. (a) It is the policy of the United States to strengthen the safeguards program of the International Atomic Energy Agency and in order to implement this policy to contribute funds to assist the Agency in meeting the challenge of effectively implementing nuclear safeguards at a

time when international utilization of nuclear power for growing energy needs is rapidly increasing.

(b) There is hereby authorized to be appropriated $5,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: Provided, That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.

NUCLEAR NONPROLIFERATION OBJECTIVES

SEC. 12. (a) The President is requested and authorized to enter promptly into negotiations with the Union of Soviet Socialist Republics, France, the Federal Republic of Germany, the United Kingdom, Canada, and Japan, and such other nuclear supplier countries as he deems appropriate, for the express purpose of reaching an agreement which shall be binding on each of the parties, and which shall include provisions for—

(1) arrangements leading to the cooperative provision, under international safeguards, of nuclear reactor fuel enrichment, fabrication and reprocessing services to recipient countries on a nondiscriminatory basis, including the application of article 12 of the statute of the International Atomic Energy Agency (hereinafter re-

ferred to as the "Agency") providing for the deposit with the Agency of excess special fissionable material and spent reactor fuel;

(2) prohibition of the transfer to any individual non-nuclear weapons country of any technology, component, or facility capable of enriching, fabricating, or reprocessing special fissionable material;

(3) prohibition of the transfer of any nonmilitary atomic energy technology and any atomic energy facility, component, or material for use for nonmilitary purposes to any non-nuclear weapons country that has not entered into an agreement with the Agency—

(A) to accept the safeguards of the Agency on all source and special fissionable material in all nuclear activities within the territory of such country, under its jurisdiction, or carried out under its control anywhere, and

(B) to undertake not to receive the transfer of, or manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, and not to receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices;

(4) establishing—

(A) minimum physical security standards for the protection against acts of sabotage and theft of

all facilities and all shipment, handling, and storage of source and special fissionable material within the territory or under the jurisdiction of each of the parties, and transferred by the parties to other countries, and

(B) an international mechanism for enforcement of such standards, for recovery of stolen source and special fissionable material, and for dealing with individuals and groups engaging in acts of sabotage and theft;

(5) establishing—

(A) sanctions to be imposed against any nuclear supplier country that refuses to participate in the arrangements described in paragraphs (1), (2), (3), and (4) of this subsection, and any country that willfully violates the safeguards of the Agency,

(B) an international mechanism for recovering source and special fissionable material that has been obtained or used by a country in willful violation of the safeguards of the Agency, including use in a nuclear explosion program, and for recovering any exported technology, component, or facility used in connection with such violation.

(b) The President is requested and authorized to enter promptly into bilateral and multilateral negotiations with as

many other countries as possible including those referred to in subsection (a) for the express purpose of reaching an agreement which shall be binding on each of the parties and which shall establish an international mechanism for dealing with and imposing sanctions on any non-nuclear-weapons country that, by virtue of engaging in unauthorized nuclear activities beyond the reach of, or in violation of, the safeguards of the Agency, is deemed to have embarked upon a nuclear weapons program. Such international mechanism shall, with respect to any non-nuclear-weapons country that has detonated a nuclear explosive device, include procedures for—

(1) suspending some or all commerce and communications between the parties and such country;

(2) requiring the return of any exported source or special fissionable material, and any exported technology, component or facility used in such a nuclear weapons program.

(c) The President is directed to prepare and submit a report to the Congress not later than June 1, 1977, and annually thereafter as a part of the report due December 31 pursuant to subsection 8(c) of this Act, which shall include—

(1) a description of the degree of progress made toward the negotiation of agreements that meet each of the objectives described in subsections (a) and (b);

(2) an analysis of each agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and peaceful or civil uses contained in each agreement and a discussion of the adequacy of such requirements and obligations to protect the interests of the United States and to maintain its obligations to prevent the further proliferation of atomic weapons capability;

(3) a determination as to which agreements for cooperation should be modified because they are inconsistent with the interests and obligations of the United States pursuant to paragraph (2). In making such determinations, the President shall discuss whether each agreement should prohibit the following activities and whether such activities have been engaged in by the recipient country—

(A) the explosion of a nuclear device by a non-nuclear weapons country;

(B) the refusal by a non-nuclear weapons country to accept the safeguards of the Agency on all nuclear activities;

(C) the refusal by a non-nuclear weapons country to give a specific assurance that it will not engage in a nuclear explosion program;

(D) the import or indigenous production by a non-nuclear weapons country of technology, components or facilities capable of producing special fissionable material suitable for direct use in a nuclear explosive device; and

(E) the stockpiling by a non-nuclear weapons country on a national basis of special fissionable material suitable for direct use in a nuclear explosive device.

(4) beginning December 31, 1977, and annually thereafter, a statement on the degree of progress made toward renegotiating any agreements for cooperation which the President has cited as needing modification pursuant to paragraph (3) of this subsection.

EFFECTIVE DATE

SEC. 13. This Act, other than this section, shall take effect ninety days after the date of enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

TRANSFER OF PERSONNEL AND PROPERTY

SEC. 11. (a) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred

under the provisions of this Act, are transferred to the Secretary of State or to the Commission, as the case may be.

(b)(1) Except as provided in paragraph (2) of this subsection, personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(2) The transfer of personnel pursuant to subsection (a) shall be without reduction in classification or compensation for one year after such transfer.

SAVINGS PROVISIONS

SEC. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of State or by the Commission, as the case may

be, or by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of State, or the Commission, as the case may be. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of State or by the Commission, as the case may be, or by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of State or the Commission, as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Secretary of State or the Commission, as the case may be, or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Secretary of State or the Commission, as the case may be,

then such suit shall be continued by the Secretary of State

or the Commission, as the case may be (except in the case of a suit not involving functions transferred to the Secretary of State or the Commission, as the case may be, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Department of State or the Commission, or officer in which such function is vested pursuant to this Act.

(e) Orders and actions of the Secretary of State or the Commission, as the case may be, in the exercise of functions transferred under this Act shall be subject to judicial review in the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary of State or the Commission, as the case may be.

(f) In the exercise of the functions transferred under

this Act, the Secretary of State or the Commission, as the case may be, shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

Amend the title so as to read: "A bill to reorganize certain export functions of the Federal Government to promote more efficient and effective administration of such functions.".

94TH CONGRESS
2D SESSION

S. 3770

IN THE SENATE OF THE UNITED STATES

AUGUST 25, 1976

Mr. PASTORE (for himself, Mr. RIBICOFF, Mr. GLENN, Mr. SYMINGTON, Mr. PERCY, Mr. JAVITS, and Mr. BAKER) introduced the following bill; which was read twice and referred to the Joint Committee on Atomic Energy

A BILL

To provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Explosive Proliferation Control Act of 1976".

STATEMENT OF POLICY

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent

events, including the explosion of a nuclear device by India and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to non-nuclear-weapon states, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;

(b) insure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the statute of the International Atomic Energy Agency ("the statute"), and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment, materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing criteria which would be applied im-

mediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish—

(1) effective international proliferation controls and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates its agreement with a nuclear supplier nation, its agreement to adhere to international proliferation controls and supervision, or the principles of the treaty; and

(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials

which could be of significance for nuclear explosive purposes; and

(f) increased support to be given the International Atomic Energy Agency ("the IAEA").

UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

SEC. 4. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, that it will provide a reliable supply of nuclear fuel services to those nations or groups of nations which adhere to policies designed to prevent the proliferation of nuclear explosive devices. Such nuclear fuel services shall be provided under agreements entered into pursuant to subsections 161 m. and v. of the Atomic Energy Act of 1954, as amended, or as otherwise authorized by law. The United States will make its best efforts to assure that it will have available the capacity to carry out this policy with all interested nations on a long-term basis.

SEC. 5. The United States shall institute immediate initiatives—

(a) to seek to negotiate with other nations, in-

cluding the nuclear supplier nations, one or more binding international arrangements which shall—

(1) assure that nuclear materials, equipment and sensitive nuclear technology intended for use in peaceful nuclear activities shall be transferred internationally only to nations or groups of nations which afford undertakings sufficient to insure that such materials, equipment, and sensitive nuclear technology will not be used in, or for the purposes of developing any nuclear explosive devices. Such undertakings shall be in compliance with the criteria set forth in paragraphs (1) through (6) of section 15(a) of this Act;

(2) require that special nuclear material exported by or in the possession of the parties to any such international arrangement, and that all special nuclear material produced in or through the use of any nuclear material or equipment transferred internationally by such parties, be subject to adequate physical security measures to insure their protection against acts of terrorism, sabotage, and theft;

(3) establish international standards of physical security and effective provision for application thereof;

(4) adopt procedures to be followed in the

event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty; and

(5) establish international procedures for recovering source and special nuclear material that has been stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the treaty;

(b) to assure all nations of the world that the United States, as a matter of national policy, will not act in a manner which would reduce the comprehensiveness or effectiveness of international safeguards or physical security guidelines agreed to by all major nuclear suppliers;

(c) to assure all nations of the world that the United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually seek to act with other nations to strengthen the IAEA through contribution of technical resources and support, and funding. Specific initatives the United States shall take are—

(1) continue to strengthen the safeguards pro-

gram of the IAEA and, in order to implement this initiative, contribute funds to assist the IAEA in effectively implementing safeguards at this time when international utilization of nuclear power for growing energy needs is rapidly increasing;

(2) assure that the IAEA has the resources to carry out the provisions of article XII ("agency safeguards") of the statute, including support needed to provide for the storage under international supervision of plutonium and other special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;

(3) improve the IAEA accountability system to insure—

(i) the detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices;

(ii) the timely dissemination of information regarding such diversion; and

(iii) the application of procedures in the event of such diversion;

(4) assure that the IAEA both receives the data needed for it to administer an effective and comprehensive international safeguards program and

that the IAEA provides timely notice to the world community of any evidence of violation of safeguards agreements to which it is a party; and

(d) to devise feasible approaches for the development of international nuclear fuel cycle facilities and the possible location of a number of such facilities at specific sites.

SEC. 6. The President shall take such steps as may be necessary to implement the policies and initiates of this Act fully and in a timely manner through the most vigorous efforts by the United States in concert with the IAEA and the nuclear exporting and importing nations, and through the submission of proposed legislation to the Congress.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 7. The Energy Research and Development Administration, in consultation with the Nuclear Regulatory Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from countries which have, or may be expected to develop or acquire production and utilization facilities, components, or materials for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with national security interests of the United States.

CLARIFICATION OF EXPORT FUNCTIONS

SEC. 8. Subsection 123 a. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) by deleting the introductory words thereof before the words "proposed agreement shall include" and substituting therefor the following: "the proposed agreement for cooperation has been submitted to the President, which";

(b) by amending subsection 123 a. (3) by inserting a comma after the words "military purpose" and adding the words "or for any nuclear explosive device for any purpose whatsoever"; and

(c) by deleting the semicolon at the end of subsection 123 a. (4) and inserting the following: "and (5) a guaranty by the cooperating party that, upon the request of the Government of the United States, the cooperating party will consult with the Government of the United States for the purpose of determining whether the terms and conditions thereof relating to safeguards, other control mechanisms and any peaceful use assurances contained therein should be amended. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical

assistance and concurrence of the Administrator of Energy Research and Development, and shall be submitted to the President jointly by the Secretary of State and the Administrator only after consultation with the Nuclear Regulatory Commission. Any such agreement shall be accompanied by the recommendations of the Secretary of State and the Administrator, and the views and findings of the Director of the Arms Control and Disarmament Agency in the form of a Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;".

SEC. 9. Subsection 123 d. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the

word "President," the following: "and any recommendations, views, and statements submitted to the President in accordance with subsection a. of this section,".

SEC. 10. Section 123 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsection:

"e. following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Joint Committee on Atomic Energy, the Nuclear Regulatory Commission shall promptly furnish to that committee its views as to whether the safeguards and other controls contained therein provide an adequate framework to insure that the export of any source or special nuclear material, or any production or utilization facility as contemplated by such agreement, will not be inimical to or constitute an unreasonable risk to the common defense and security.".

SEC. 11. Prior to entering into any subsequent arrangements under an agreement for cooperation other than agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954, as amended, the Energy Research and Development Administration shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration

the recommendations of other concerned agencies and departments, including the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to all subsequent arrangements which have significance for nuclear explosive purposes, to assure that the subsequent arrangements are consistent with the agreement for cooperation and the policy of preventing the proliferation of nuclear explosive devices. For purposes of this subsection, the term "subsequent arrangements" shall include: contracts for the furnishing of source or special nuclear material; approvals for the reexport of materials, facilities, components, or substances previously exported pursuant to an agreement for cooperation; authorization for the distribution of source or special nuclear material pursuant to the Atomic Energy Act; arrangements for physical security; arrangements for the reprocessing or storage of irradiated nuclear fuel; arrangements for the application of safeguards with respect to United States supplied materials, facilities, components, or substances; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation of nuclear explosive devices.

SEC. 12. Section 54 a. of the Atomic Energy Act of 1954, as amended, is amended, by inserting the following as the second sentence thereof: "The authority of the Energy

Research and Development Administration to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient): (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

SEC. 13. Subsection 57 b. of the Atomic Energy Act of 1954, as amended, is amended, to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States: *Provided,* That any such determination by the Administrator shall be made only after consultation with the Department of State, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission under mutually-agreed-to procedures which shall be established within not more than ninety days after the date of enact-

ment of this proviso. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SEC. 14. Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following sections:

"SEC. 111. EXPORT LICENSING PROCEDURES.—

"a. Following enactment of this section, no license may be issued by the Commission for the export of any production or utilization facility, any source material or special nuclear material, or any component which could be of significance for nuclear explosive purposes, and no exemption from any requirement for such an export license may be granted by the Commission, until the Commission has furnished a copy of such application or proposed exemption to the Secretary of State, and has been notified by the Secretary of State that, in his judgment, the issuance of the license or grant of the exemption will not be inimical to the common defense and security.

"b. In making the judgment called for by subsection a., the Secretary of State shall obtain the views of other concerned departments and agencies, including a Nuclear Proliferation Assessment Statement from the Arms Control and Disarmament Agency, in accordance with procedures estab-

lished by the President. The procedures shall include provision of appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Nuclear Regulatory Commission to carry out its export licensing functions.

"c. Within one hundred and twenty days of the effective date of this section, the Commission shall promulgate regulations relating to the procedures which will apply to the review of applications for licenses for export under its jurisdiction. Among other things, the procedures shall provide that if one or more Commissioners have dissenting views on the issuance of an export license, the Commission decision shall be supported by a public written opinion accompanied by any such dissenting views.

"d. No court shall have any jurisdiction under any law to compel the performance of, or to review the adequacy of the performance of, any Nuclear Proliferation Assessment Statement called for in this section and elsewhere in this Act.

"SEC. 112. LICENSING CRITERIA FOR NUCLEAR EXPORTS.—

"a. The United States adopts, as a matter of policy, the following criteria which, in addition to other requirements of law, will govern its export for peaceful nuclear uses of source material and special nuclear material or of any production or utilization facilities, or any technology, component or sub-

stance which could be of significance for nuclear explosive purposes:

"(1) Assurance that IAEA safeguards or their equivalent shall be applied with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.

"(2) Assurance that no such material, facility, technology, component, or substance, and no special nuclear material produced through the use of such material, facility, technology, component, or substance will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Assurance that adequate physical security measures will be imposed and maintained with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.

"(4) Assurance that no such material, facility, technology, component, or substance, and no special nuclear material produced through the use thereof, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer

agree to accept all applicable conditions imposed by the United States on the original transfer.

"(5) Assurance that no such material, and no special nuclear material used in or produced through the use of such material, facility, component, or substance, will be reprocessed, and no irradiated fuel elements containing such material will be removed from a reactor and altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) Where appropriate, assurance that the recipient country will apply the foregoing conditions to any such material or facility which is produced or constructed by or through the use of any such material, facility, technology, component, or substance.

"b. The Nuclear Regulatory Commission shall not issue any export license for such material, facilities, or components, or give its approval for the export of substances covered by subsection a. of this section, and the Energy Research and Development Administration shall not distribute any source or special nuclear material under sections 54 and 64 of the Atomic Energy Act of 1954, as amended, until the Commission or the Administration, as the case may be—

"(1) finds that the criteria in subsection a. or their equivalent, and any others which the Commission or the

Administration, as the case may be, deems necessary to meet the applicable statutory requirements of the Atomic Energy Act of 1954, as amended, will be adhered to by the government of the recipient country in a manner acceptable to the United States; and

"(2) receives advice, in accordance with procedures established under subsection 111 b., that it is the judgment of the Department of State and other concerned executive branch agencies and departments that the proposed export would not be inimical to the common defense and security of the United States.

"c. The President may, by Executive order effective not less than sixty days following its date of promulgation, modify the criteria in paragraphs 3 through 6 in subsection 112 a. as they apply to a specific proposed export, if he determines and certifies in writing, with supporting reasons, to the Congress that—

"(1) such modification is required to avoid a serious adverse effect on vital United States interests;

"(2) the criteria, as modified, will not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear explosives of any kind; and

"(3) he has received reliable assurances from the recipient country that such country will not acquire or

develop nuclear explosives of any kind or assist other nations in doing so.".

SEC. 15. (a) Effective eighteen months after the date of enactment of this Act, except as provided in subsection (b), paragraphs (1) through (6) of section 112 a. of the Atomic Energy Act of 1954, as amended, are amended to read as follows:

"(1) assurances shall be received from non-nuclear-weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

"(2) assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance will be used for nuclear explosive devices for any purpose or for research or development of nuclear explosive devices for any purpose;

"(3) assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities which are sufficient to prevent theft or sabotage;

"(4) assurances shall be received that no imported

or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance shall be transferred to the jurisdiction of any other nation or group of nations unless such nation or group of nations agree to apply the controls set forth in this subsection;

"(5) assurances shall be received from non-nuclear-weapon states that—

"(A) they will forgo development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities and the stockpiling of weapons-grade material on a national basis, and will place any existing facilities and stockpiles under effective international auspices, management, and inspection;

"(B) no imported material and no special nuclear material used in or produced through the use of any imported material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, and such material will be returned to the exporting country or to a facility

under effective international auspices, management, and inspection located outside the jurisdiction of the recipient country; and

"(C) no indigenously developed material or special nuclear material used in or produced through the use of any indigenously developed material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, except in a facility under effective international auspices, management, and inspection;

"(6) assurances shall be received from non-nuclear-weapon states that the controls set forth in this subsection will be applied to any material or facilities which are produced or constructed by or through the use of any imported or indigenously developed material, facility, technology, component, or substance.".

(b) (1) If the President determines that implementation of one or more of the six revised criteria set forth in subsection (a) at the expiration of eighteen months from the date of enactment of this Act would have a serious adverse impact on vital United States interests, and that a delay in the effective date of such criteria would not promote the

acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may by Executive order delay the effective date of some or all of the revised criteria for not more than twelve months. Any such Executive order shall be promulgated not earlier than fourteen months and not later than sixteen months after the date of enactment of this Act, shall be effective not less than sixty days following its date of promulgation, and shall specify a new effective date for each of the criteria which are to be delayed. A delay in the effective date of some but not all of the six revised criteria shall not affect the implementation of the remaining six criteria.

(2) Upon promulgating any such Executive order, the President shall submit a report to Congress including—

(A) a detailed statement of the reasons underlying the President's determination that implementation of the revised criteria on the existing effective date would have a serious adverse impact on the vital United States interests;

(B) a detailed statement of the reasons underlying the President's determination that a delay in the effective date of the criteria to be delayed would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind;

(C) a report on his progress in obtaining adherence to each of the six revised criteria by the other nuclear supplier nations and by countries with which the United States has negotiated agreements for cooperation;

(D) an assessment of the impact of the proposed delay on the nonproliferation goals of the United States; and

(E) a statement of what legislative modifications in the revised criteria, if any, would in his judgment make it feasible to implement the revised criteria at an earlier date.

(3) If the President subsequently determines that implementation of one or more of any criteria which have been delayed pursuant to this subsection on the existing effective date would have a serious adverse impact on vital United States interests, and that a further delay in their effective date would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may, by Executive order effective not less than sixty days after its date of promulgation, further delay the effective date of such criteria for not more than twelve months each time he makes such a determination. Each time the President promulgates such a Executive order he shall submit a report to Congress in accordance with the procedures set forth in paragraph (2).

(c) Subsection 112(c) of the Atomic Energy Act of 1954, as amended, shall not apply to paragraphs (3) through (6) of the revised criteria set forth in subsection (a) of this section.

SEC. 16. Section 109 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsections 11 v. or 11 cc. of the Atomic Energy Act of 1954, as amended, and which other items or substances that are intended for end-use in a production or utilization facility, are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. No such component, substance, or item which is so determined by the Commission, shall be exported unless the Commission issues a general or specific license for its export, after determining

in writing that the issuance of each such general or specific license will not constitute an unreasonable risk to the common defense and security.

"c. The Commission, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Energy Research and Development Administration, and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to the proposed issuance of any general or specific license for such export which has significance for nuclear explosive purposes.

"d. The Commission shall not issue an export license under the authority of subsection (a) if it is advised by the executive branch, in accordance with the procedures established under subsection 111 b., that the export would be inimical to the common defense and security of the United States.

"e. The President, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used

for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultation, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Energy Research and Development Administration. The Commerce Department shall not issue a license for any such export which could be of significance for nuclear explosive purposes if it is advised by any of the foregoing agencies or departments that the export would be inimical to the common defense and security of the United States.

CONGRESSIONAL OVERSIGHT OF NUCLEAR EXPORT ACTIVITIES

SEC. 17. (a) The President shall review all activities of Government departments and agencies relating to preventing the proliferation of nuclear explosive devices and shall make an annual report to Congress within not more than one year after the date of enactment of this Act and annually in January of each year thereafter on the Government's efforts to prevent such proliferation. This report is to include but not be limited to—

(1) a description of the progress made toward—

(i) achieving adoption and adherence to the

international arrangements contemplated in section 5 of this Act;

(ii) promoting adherence to the Treaty on the Nonproliferation of Nuclear Weapons, and discouraging or prohibiting nuclear exports to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and forsaking the development of any nuclear explosive devices;

(iii) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 5 of this Act; and

(iv) accomplishing the initiatives contemplated in section 5 of this Act;

(2) an analysis of each agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and peaceful or civil uses contained in each agreement and a discussion of the adequacy of such requirements and obligations to protect the interests of the United States and to maintain its obligations to prevent the further proliferation of nuclear explosive devices; and

(3) a determination as to which agreements for cooperation negotiated pursuant to section 123 of the

Atomic Energy Act should be modified because they are inconsistent with the interests and obligations of the United States. In making such determinations, the President shall discuss whether each agreement prohibits the following activities and whether such activities have been engaged in by the recipient country—

(i) the explosion of a nuclear device by a non-nuclear-weapon state;

(ii) the refusal by a non-nuclear-weapon state to accept the safeguards of the IAEA on all its nuclear activities; and

(iii) the refusal by a non-nuclear-weapon state to give a specific assurance that it will not engage in the development of any nuclear explosive device.

(b) The annual reports to the Congress by the Nuclear Regulatory Commission and the Energy Research and Development Administration which are otherwise required by law shall also include recommendations and accomplishments regarding the policies and actions of the United States to prevent the proliferation of nuclear explosive devices which are the statutory responsibility of those agencies. The Administration's report shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques for the proliferation of nuclear explosive devices. This part of the report shall include a comprehensive version

which includes classified information to be submitted to the Joint Committee on Atomic Energy and a summary unclassified version.

(c) The reporting requirements of this section are in addition to and not in lieu of any other reporting requirements under applicable law.

(d) The Department of State, the Arms Control and Disarmament Agency, and the Department of Commerce shall keep the Joint Committee fully and currently informed with respect to their activities to effectuate the purposes and policies of this Act and to otherwise prevent the proliferation of nuclear explosive devices.

AUTHORIZATIONS

SEC. 18. (a) There is hereby authorized to be appropriated $2,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: *Provided,* That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law;

(b) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission an additional sum of $2,500,000 for fiscal year 1977, which sum to remain available until expended, for the purpose of exercising its export licensing responsibilities pursuant to this Act.

DEFINITIONS

SEC. 19. As used in this Act:

(a) The term "nuclear fuel services" means uranium enrichment services, nuclear fuel fabrication services or other services relating to the use of source or special nuclear material as fuel in a reactor.

(b) The term "nuclear materials and equipment" means source material, special nuclear material, production facilities, and utilization facilities.

(c) The term "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

(d) The term "safeguards" means a system of controls designed to insure that any materials, equipment, components, or substances subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

(e) The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof, or in a nuclear-related substance) the transfer of which to any foreign recipient requires a specific authorization from the Administrator under subsection 57 b. (2) of the Atomic Energy Act of 1954, as amended.

(f) The term "significance for nuclear explosive pur-

poses" means any source or special nuclear material, any production or utilization facility, component, item, or substance, which could materially assist a foreign recipient in developing a nuclear explosive device for any purpose whatsoever.

(g) All other terms used in this Act shall have the meanings ascribed to them by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Treaty on the Nonproliferation of Nuclear Weapons.

SAVINGS PROVISION

SEC. 19. All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or office, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction; and,

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

94TH CONGRESS
2D SESSION

H. R. 15273

IN THE HOUSE OF REPRESENTATIVES

AUGUST 25, 1976

Mr. PRICE (for himself and Mr. ANDERSON of Illinois) (by request) introduced the following bill; which was referred to the Joint Committee on Atomic Energy

A BILL

To provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Explosive Proliferation Control Act of 1976".

STATEMENT OF POLICY

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India

and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to non-nuclear-weapon states, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;

(b) insure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the Statute of the International Atomic Energy Agency ("the statute") and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment, materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments

thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing criteria which would be applied immediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish—

(1) effective international proliferation controls and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates its agreement with a nuclear supplier nation, its agreement to adhere to international pro-

liferation controls and supervision, or the principles of the treaty; and

(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials which could be of significance for nuclear explosive purposes; and

(f) increased support to be given the International Atomic Energy Agency ("the IAEA").

UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

SEC. 4. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, that it will provide a reliable supply of nuclear fuel services to those nations or groups of nations which adhere to policies designed to prevent the proliferation of nuclear explosive devices. Such nuclear fuel services shall be provided under agreements entered into pursuant to subsections 161 m. and v. of the Atomic Energy Act of 1954, as amended, or as otherwise authorized by law. The United States will make its best efforts to assure that it will have

available the capacity to carry out this policy with all interested nations on a long-term basis.

SEC. 5. The United States shall institute immediate initiatives—

(a) to seek to negotiate with other nations, including the nuclear supplier nations, one or more binding international arrangements which shall—

(1) assure that nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities shall be transferred internationally only to nations or groups of nations which afford undertakings sufficient to insure that such materials, equipment, and sensitive nuclear technology will not be used in, or for the purposes of developing any nuclear explosive devices. Such undertakings shall be in compliance with the criteria set forth in paragraphs (1) through (6) of section 15(a) of this Act;

(2) require that special nuclear material exported by or in the possession of the parties to any such international arrangement, and that all special nuclear material produced in or through the use of any nuclear material or equipment transferred internationally by such parties, be subject to adequate

physical security measures to insure their protection against acts of terrorism, sabotage, and theft;

(3) establish international standards of physical security and effective provision for application thereof;

(4) adopt procedures to be followed in the event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty; and

(5) establish international procedures for recovering source and special nuclear material that has been stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the treaty;

(b) to assure all nations of the world that the United States, as a matter of national policy, will not act in a manner which would reduce the comprehensiveness or effectiveness of international safeguards or physical security guidelines agreed to by all major nuclear suppliers;

(c) to assure all nations of the world that the United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to

prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually seek to act with other nations to strengthen the IAEA through contribution of technical resources and support, and funding. Specific initiatives the United States shall take are—

(1) continue to strengthen the safeguards program of the IAEA and, in order to implement this initiative, contribute funds to assist the IAEA in effectively implementing safeguards at this time when international utilization of nuclear power for growing energy needs is rapidly increasing;

(2) assure that the IAEA has the resources to carry out the provisions of article XII ("agency safeguards") of the statute, including support needed to provide for the storage under international supervision of plutonium and other special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;

(3) improve the IAEA accountability system to insure—

(i) the detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices;

(ii) the timely dissemination of information regarding such diversion; and

(iii) the application of procedures in the event of such diversion;

(4) assure that the IAEA both receives the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of violation of safeguards agreements to which it is a party; and

(d) to devise feasible approaches for the development of international nuclear fuel cycle facilities and the possible location of a number of such facilities at specific sites.

SEC. 6. The President shall take such steps as may be necessary to implement the policies and initiates of this Act fully and in a timely manner through the most vigorous efforts by the United States in concert with the IAEA and the nuclear exporting and importing nations, and through the submission of proposed legislation to the Congress.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 7. The Energy Research and Development Administration, in consultation with the Nuclear Regulatory Commission, shall establish and operate a safeguards and physical security training program to be made available to

persons from countries which have, or may be expected to develop or acquire production and utilization facilities, components, or materials for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with national security interests of the United States.

CLARIFICATION OF EXPORT FUNCTIONS

SEC. 8. Subsection 123 a. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) by deleting the introductory words thereof before the words "proposed agreement shall include" and substituting therefor the following: "the proposed agreement for cooperation has been submitted to the President, which";

(b) by amending subsection 123 a. (3) by inserting a comma after the words "military purpose" and adding the words "or for any nuclear explosive device for any purpose whatsoever"; and

(c) by deleting the semicolon at the end of subsection 123 a. (4) and inserting the following: "and (5) a guaranty by the cooperating party that, upon the request of the Government of the United States, the cooperating party will consult with the Government of the United States for the purpose of determining whether the terms

and conditions thereof relating to safeguards, other control mechanisms, and any peaceful use assurances contained therein should be amended. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Administrator of Energy Research and Development, and shall be submitted to the President jointly by the Secretary of State and the Administrator only after consultation with the Nuclear Regulatory Commission. Any such agreement shall be accompanied by the recommendations of the Secretary of State and the Administrator, and the views and findings of the Director of the Arms Control and Disarmament Agency in the form of a Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research

and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;".

SEC. 9. Subsection 123 d. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the word "President," the following: "and any recommendations, views, and statements submitted to the President in accordance with subsection a. of this section,".

SEC. 10. Section 123 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsection:

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Joint Committee on Atomic Energy, the Nuclear Regulatory Commission shall promptly furnish to that Committee its views as to whether the safeguards and other controls contained therein provide an adequate framework to insure that the export of any source or special nuclear material, or any production or utilization facility as contemplated by such agreement, will not be inimical to or constitute an unreasonable risk to the common defense and security.".

SEC. 11. Prior to entering into any subsequent arrangements under an agreement for cooperation other than agree-

ments for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954, as amended, the Energy Research and Development Administration shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of other concerned agencies and departments, including the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to all subsequent arrangements which have significance for nuclear explosive purposes, to assure that the subsequent arrangements are consistent with the agreement for cooperation and the policy of preventing the proliferation of nuclear explosive devices. For purposes of this subsection, the term "subsequent arrangements" shall include: contracts for the furnishing of source or special nuclear material; approvals for the reexport of materials, facilities, components, or substances previously exported pursuant to an agreement for cooperation; authorization for the distribution of source or special nuclear material pursuant to the Atomic Energy Act; arrangements for physical security; arrangements for the reprocessing or storage of irradiated nuclear fuel; arrangements for the application of safeguards with respect to United States supplied materials, facilities, components, or substances; or any other arrangement which the President finds

to be important from the standpoint of preventing the proliferation of nuclear explosive devices.

SEC. 12. Section 54 a. of the Atomic Energy Act of 1954, as amended, is amended, by inserting the following as the second sentence thereof: "The authority of the Energy Research and Development Administration to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient): (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

SEC. 13. Subsection 57 b. of the Atomic Energy Act of 1954, as amended, is amended, to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Ad-

ministrator shall be made only after consultation with the Department of State, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission under mutually-agreed-to procedures which shall be established within not more than ninety days after the date of enactment of this proviso. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SEC. 14. Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following sections:

"SEC. 111. EXPORT LICENSING PROCEDURES.—

"a. Following enactment of this section, no license may be issued by the Commission for the export of any production or utilization facility, any source material or special nuclear material, or any component which could be of significance for nuclear explosive purposes, and no exemption from any requirement for such an export license may be granted by the Commission, until the Commission has furnished a copy of such application or proposed exemption to the Secretary of State, and has been notified by the Secretary of State that, in his judgment, the issuance of the license or grant of the exemption will not be inimical to the common defense and security.

"b. In making the judgment called for by subsection a., the Secretary of State shall obtain the views of other concerned departments and agencies, including a Nuclear Proliferation Assessment Statement from the Arms Control and Disarmament Agency, in accordance with procedures established by the President. The procedures shall include provision of appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Nuclear Regulatory Commission to carry out its export licensing functions.

"c. Within one hundred and twenty days of the effective date of this section, the Commission shall promulgate regulations relating to the procedures which will apply to the review of applications for licenses for export under its jurisdiction. Among other things, the procedures shall provide that if one or more Commissioners have dissenting views on the issuance of an export license, the Commission decision shall be supported by a public written opinion accompanied by any such dissenting views.

"d. No court shall have any jurisdiction under any law to compel the performance of, or to review the adequacy of the performance of, any Nuclear Proliferation Assessment Statement called for in this section and elsewhere in this Act.

"SEC. 112. LICENSING CRITERIA FOR NUCLEAR EXPORTS.—

"a. The United States adopts, as a matter of policy, the following criteria which, in addition to other requirements of law, will govern its export for peaceful nuclear uses of source material and special nuclear material or of any production or utilization facilities, or any technology, component, or substance which could be of significance for nuclear explosive purposes:

"(1) Assurance that IAEA safeguards or their equivalent shall be applied with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.

"(2) Assurance that no such material, facility, technology, component, or substance, and no special nuclear material produced through the use of such material, facility, technology, component, or substance will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Assurance that adequate physical security measures will be imposed and maintained with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.

"(4) Assurance that no such material, facility, technology, component, or substance, and no special

nuclear material produced through the use thereof, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtanied for such retransfer. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agree to accept all applicable conditions imposed by the United States on the original transfer.

"(5) Assurance that no such material, and no special nuclear material used in or produced through the use of such material, facility, component, or substance, will be reprocessed, and no irradiated fuel elements containing such material will be removed from a reactor and altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) Where appropriate, assurance that the recipient country will apply the foregoing conditions to any such material or facility which is produced or constructed by or through the use of any such material, facility, technology, component, or substance.

"b. The Nuclear Regulatory Commission shall not issue any export license for such material, facilities, or components, or give its approval for the export of substances covered by subsection a. of this section, and the Energy Re-

search and Development Administration shall not distribute any source or special nuclear material under sections 54 and 64 of the Atomic Energy Act of 1954, as amended, until the Commission or the Administration, as the case may be—

"(1) finds that the criteria in subsection a. or their equivalent, and any others which the Commission or the Administration, as the case may be, deems necessary to meet the applicable statutory requirements of the Atomic Energy Act of 1954, as amended, will be adhered to by the government of the recipient country in a manner acceptable to the United States; and

"(2) receives advice, in accordance with procedures established under subsection 111 b., that it is the judgment of the Department of State and other concerned executive branch agencies and departments that the proposed export would not be inimical to the common defense and security of the United States.

"c. The President may, by Executive order effective not less than sixty days following its date of promulgation, modify the criteria in paragraphs 3 through 6 in subsection 112 a. as they apply to a specific proposed export, if he determines and certifies in writing, with supporting reasons, to the Congress that—

"(1) such modification is required to avoid a serious adverse effect on vital United States interests;

"(2) the criteria, as modified, will not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear explosives of any kind; and

"(3) he has received reliable assurances from the recipient country that such country will not acquire or develop nuclear explosives of any kind or assist other nations in doing so.".

SEC. 15. (a) Effective eighteen months after the date of enactment of this Act, except as provided in subsection (b), paragraphs (1) through (6) of section 112 a. of the Atomic Energy Act of 1954, as amended, are amended to read as follows:

"(1) assurances shall be received from non-nuclear-weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

"(2) assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance will be used for nuclear explosive devices for any purpose

or for research or development of nuclear explosive devices for any purpose;

"(3) assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities which are sufficient to prevent theft or sabotage;

"(4) assurances shall be received that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance shall be transferred to the jurisdiction of any other nation or group of nations unless such nation or group of nations agree to apply the controls set forth in this subsection;

"(5) assurances shall be received from non-nuclear-weapon states that—

"(A) they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities and the stockpiling of weapons-grade material on a national basis, and will place any existing facilities and stockpiles under effective international auspices, management, and inspection;

"(B) no imported material and no special

nuclear material used in or produced through the use of any imported material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, and such material will be returned to the exporting country or to a facility under effective international auspices, management, and inspection located outside the jurisdiction of the recipient country; and

"(C) no indigenously developed material or special nuclear material used in or produced through the use of any indigenously developed material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, except in a facility under effective international auspices, management, and inspection;

"(6) assurances shall be received from non-nuclear-weapon states that the controls set forth in this subsection will be applied to any material or facilities which are produced or constructed by or through the use of

any imported or indigenously developed material, facility, technology, component, or substance.".

(b) (1) If the President determines that implementation of one or more of the six revised criteria set forth in subsection (a) at the expiration of eighteen months from the date of enactment of this Act would have a serious adverse impact on vital United States interests, and that a delay in the effective date of such criteria would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind, he may by Executive order delay the effective date of some or all of the revised criteria for not more than twelve months. Any such Executive order shall be promulgated not earlier than fourteen months and not later than sixteen months after the date of enactment of this Act, shall be effective not less than sixty days following its date of promulgation, and shall specify a new effective date for each of the criteria which are to be delayed. A delay in the effective date of some but not all of the six revised criteria shall not affect the implementation of the remaining six criteria.

(2) Upon promulgating any such Executive order, the President shall submit a report to Congress including—

(A) a detailed statement of the reasons underlying the President's determination that implementation of the revised criteria on the existing effective date would have

a serious adverse impact on the vital United States interests;

(B) a detailed statement of the reasons underlying the President's determination that a delay in the effective date of the criteria to be delayed would not promote the acquisition by non-nuclear-weapon states of the capability or the material to develop nuclear devices of any kind;

(C) a report on his progress in obtaining adherence to each of the six revised criteria by the other nuclear supplier nations and by countries with which the United States has negotiated agreements for cooperation;

(D) an assessment of the impact of the proposed delay on the nonproliferation goals of the United States; and

(E) a statement of what legislative modifications in the revised criteria, if any, would in his judgment make it feasible to implement the revised criteria at an earlier date.

(3) If the President subsequently determines that implementation of one or more of any criteria which have been delayed pursuant to this subsection on the existing effective date would have a serious adverse impact on vital United States interests, and that a further delay in their effective date would not promote the acquisition by non-nuclear-

weapon states of the capability or the material to develop nuclear devices of any kind, he may, by Executive order effective not less than sixty days after its date of promulgation, further delay the effective date of such criteria for not more than twelve months each time he makes such a determination. Each time the President promulgates such an Executive order he shall submit a report to Congress in accordance with the procedures set forth in paragraph (2).

(c) Subsection 112(c) of the Atomic Energy Act of 1954, as amended, shall not apply to paragraphs (3) through (6) of the revised criteria set forth in subsection (a) of this section.

SEC. 16. Section 109 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsection 11 v.

or 11 cc. of the Atomic Energy Act of 1954, as amended, and which other items or substances that are intended for end-use in a production or utilization facility, are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. No such component, substance, or item which is so determined by the Commission, shall be exported unless the Commission issues a general or specific license for its export, after determining in writing that the issuance of each such general or specific license will not constitute an unreasonable risk to the common defense and security.

"c. The Commission, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Energy Research and Development Administration, and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to the proposed issuance of any general or specific license for such export which has significance for nuclear explosive purposes.

"d. The Commission shall not issue an export license under the authority of subsection (a) if it is advised by the executive branch, in accordance with the procedures estab-

lished under subsection 111 b., that the export would be inimical to the common defense and security of the United States.

"e. The President, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultation, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Energy Research and Development Administration. The Commerce Department shall not issue a license for any such export which could be of significance for nuclear explosive purposes if it is advised by any of the foregoing agencies or departments that the export would be inimical to the common defense and security of the United States.".

CONGRESSIONAL OVERSIGHT OF NUCLEAR EXPORT ACTIVITIES

SEC. 17. (a) The President shall review all activities of Government departments and agencies relating to preventing the proliferation of nuclear explosive devices and

shall make an annual report to Congress within not more than one year after the date of enactment of this Act and annually in January of each year thereafter on the Government's efforts to prevent such proliferation. This report is to include but not be limited to—

(1) a description of the progress made toward—

(i) achieving adoption and adherence to the international arrangements contemplated in section 5 of this Act;

(ii) promoting adherence to the Treaty on the Non-Proliferation of Nuclear Weapons, and discouraging or prohibiting nuclear exports to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and forsaking the development of any nuclear explosive devices;

(iii) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 5 of this Act; and

(iv) accomplishing the initiatives contemplated in section 5 of this Act;

(2) an analysis of each agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and

peaceful or civil uses contained in each agreement and a discussion of the adequacy of such requirements and obligations to protect the interests of the United States and to maintain its obligations to prevent the further proliferation of nuclear explosive devices; and

(3) a determination as to which agreements for cooperation negotiated pursuant to section 123 of the Atomic Energy Act should be modified because they are inconsistent with the interests and obligations of the United States. In making such determinations, the President shall discuss whether each agreement prohibits the following activities and whether such activities have been engaged in by the recipient country—

(i) the explosion of a nuclear device by a non-nuclear-weapon state;

(ii) the refusal by a non-nuclear-weapon state to accept the safeguards of the IAEA on all its nuclear activities; and

(iii) the refusal by a non-nuclear-weapon state to give a specific assurance that it will not engage in the development of any nuclear explosive device.

(b) The annual reports to the Congress by the Nuclear Regulatory Commission and the Energy Research and Development Administration which are otherwise required by law shall also include recommendations and accomplish-

ments regarding the policies and actions of the United States to prevent the proliferation of nuclear explosive devices which are the statutory responsibility of those agencies. The Administration's report shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques for the proliferation of nuclear explosive devices. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Joint Committee on Atomic Energy and a summary unclassified version.

(c) The reporting requirements of this section are in addition to and not in lieu of any other reporting requirements under applicable law.

(d) The Department of State, the Arms Control and Disarmament Agency, and the Department of Commerce shall keep the Joint Committee fully and currently informed with respect to their activities to effectuate the purposes and policies of this Act and to otherwise prevent the proliferation of nuclear explosive devices.

AUTHORIZATIONS

SEC. 18. (a) There is hereby authorized to be appropriated $2,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: *Provided*, That such sums shall be in addition to

any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.

(b) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission an additional sum of $2,500,000 for fiscal year 1977, which sum to remain available until expended, for the purpose of exercising its export licensing responsibilities pursuant to this Act.

DEFINITIONS

SEC. 19. As used in this Act:

(a) The term "nuclear fuel services" means uranium enrichment services, nuclear fuel fabrication services or other services relating to the use of source or special nuclear material as fuel in a reactor.

(b) The term "nuclear materials and equipment" means source material, special nuclear material, production facilities, and utilization facilities.

(c) The term "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

(d) The term "safeguards" means a system of controls designed to insure that any materials, equipment, components, or substances subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

(e) The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof, or in a nuclear-related substance) the transfer of which to any foreign recipient requires a specific authorization from the Administrator under subsection 57 b. (2) of the Atomic Energy Act of 1954, as amended.

(f) The term "significance for nuclear explosive purposes" means any source or special nuclear material, any production or utilization facility, component, item, or substance, which could materially assist a foreign recipient in developing a nuclear explosive device for any purpose whatsoever.

(g) All other terms used in this Act shall have the meanings ascribed to them by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Treaty on the Non-Proliferation of Nuclear Weapons.

SAVINGS PROVISION

SEC. 19. All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or office, or part thereof, in exercising the functions

which are affected by this Act, or (ii) any court of competent jurisdiction; and,

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

Union Calendar No. 818

94TH CONGRESS
2D SESSION

H. R. 15419

[Report No. 94–1613]

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 2, 1976

Mr. PRICE (for himself and Mr. ANDERSON of Illinois) introduced the following bill; which was referred to the Joint Committee on Atomic Energy

SEPTEMBER 18, 1976

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Explosive Proliferation Control Act of 1976".

~~STATEMENT OF POLICY~~

~~SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India~~

~~and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to nonnuclear weapon states, and the rising technical capabilities of many nations making possible, and in some cases likely, the independent development of at least a small scale nuclear fuel reprocessing capability, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—~~

~~(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;~~

~~(b) insure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the Statute of the International Atomic Energy Agency ("the statute") and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and~~

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment, materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments

thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing criteria which would be applied immediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish—

(1) effective international proliferation control and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates its agreement with a nuclear supplier nation, its agreement to adhere to international pro-

~~liferation controls and supervision, or the principles of the treaty; and~~

~~(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials which could be of significance for nuclear explosive purposes; and~~

~~(f) increased support to be given the International Atomic Energy Agency ("the IAEA").~~

~~UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION~~

~~SEC. 4. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, that it will provide a reliable supply of nuclear fuel services to those nations or groups of nations which adhere to policies designed to prevent the proliferation of nuclear explosive devices. Such nuclear fuel services shall be provided under agreements entered into pursuant to subsections 161 m. and v. of the Atomic Energy Act of 1954, as amended, or as otherwise authorized by law. The United States will make its best efforts to assure that it will have~~

available the capacity to carry out this policy with all interested nations on a long-term basis.

SEC. 5. The United States shall institute immediate initiatives—

(a) to seek to negotiate with other nations, including the nuclear supplier nations, one or more binding international arrangements which shall—

(1) assure that nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities shall be transferred internationally only to nations or groups of nations which afford undertakings in compliance with the criteria set forth in subsection 15(a) of this Act sufficient to insure that such materials, equipment, and sensitive nuclear technology will not be used in, or for the purposes of developing any nuclear explosive devices;

(2) require that special nuclear material exported by or in the possession of the parties to any such international arrangement, and that all special nuclear material produced in or through the use of any nuclear material or equipment transferred internationally by such parties, be subject to adequate physical security measures to insure their protection against acts of terrorism, sabotage, and theft;

~~(3) establish international standards of physical security and effective provision for application thereof;~~

~~(4) adopt general principles and procedures to be followed in the event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty; and~~

~~(5) establish international procedures for recovering source and special nuclear material that has been stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the treaty;~~

~~(b) to assure all nations of the world that the United States, as a matter of national policy, will not act in a manner which would reduce the comprehensiveness or effectiveness of international safeguards or physical security guidelines agreed to by all major nuclear suppliers;~~

~~(c) to assure all nations of the world that the United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually seek to act with other nations to strengthen the IAEA through~~

~~contribution of technical resources and support, and funding. Specific initiatives the United States shall take are—~~

~~(1) continue to strengthen the safeguards program of the IAEA and, in order to implement this initiative, contribute funds to assist the IAEA in effectively implementing safeguards at this time when international utilization of nuclear power for growing energy needs is rapidly increasing;~~

~~(2) assure that the IAEA has the resources to carry out the provisions of article XII ("agency safeguards") of the statute, including support needed to provide for the storage under international supervision of plutonium and other special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;~~

~~(3) improve the IAEA accountability system to insure—~~

~~(i) the detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices;~~

~~(ii) the timely dissemination of information regarding such diversion; and~~

~~(iii) the application of procedures in the event of such diversion;~~

~~(4) assure that the IAEA both receives the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of violation of safeguards agreements to which it is a party; and~~

~~(d) to devise feasible approaches for the development either under effective international auspices and management or under equivalent effective international safeguards controls of nuclear fuel cycle facilities and the possible location of a number of such facilities at specific sites.~~

~~SEC. 6. The President shall take such steps as may be necessary to implement the policies and initiates of this Act fully and in a timely manner through the most vigorous efforts by the United States in concert with the IAEA and the nuclear exporting and importing nations, and through the submission of proposed legislation to the Congress.~~

~~SAFEGUARDS TRAINING PROGRAM AND STUDIES~~

~~SEC. 7. The Energy Research and Development Administration, in consultation with the Nuclear Regulatory Commission, shall establish and operate a safeguards and~~

physical security training program to be made available to persons from countries which have, or may be expected to develop or acquire production and utilization facilities, components, or materials for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with national security interests of the United States.

CLARIFICATION OF EXPORT FUNCTIONS

SEC. 8. Subsection 123 a. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) by deleting the introductory words thereof before the words "proposed agreement shall include" and substituting therefor the following: "the proposed agreement for cooperation has been submitted to the President, which";

(b) by amending subsection 123 a. (3) by inserting a comma after the words "military purpose" and adding the words "or for any nuclear explosive device for any purpose whatsoever"; and

(c) by deleting the semicolon at the end of subsection 123 a. (4) and inserting the following: "and (5) a guaranty by the cooperating party that, upon the request of the Government of the United States, the cooperating party will consult with the Government of the United

States for the purpose of determining whether the terms and conditions thereof relating to safeguards, other control mechanisms, and any peaceful use assurances contained therein should be amended. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Administrator of Energy Research and Development, and shall be submitted to the President jointly by the Secretary of State and the Administrator only after consultation with the Nuclear Regulatory Commission. Any such agreement shall be accompanied by the recommendations of the Secretary of State and the Administrator, and the views and findings of the Director of the Arms Control and Disarmament Agency in the form of a Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to

the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;".

SEC. 9. Subsection 123 d. of the Atomic Energy Act of 1954, as amended, is amended by inserting after the word "President," the following: "and any recommendations, views, and statements submitted to the President in accordance with subsection a. of this section,".

SEC. 10. Section 123 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsection:

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Joint Committee on Atomic Energy, the Nuclear Regulatory Commission shall promptly furnish to the Committee its views as to whether the safeguards and other controls contained therein provide an adequate framework to insure that the export of any source or special nuclear material, or any production or utilization facility as contemplated by such agreement, will not be inimical to or constitute an unreasonable risk to the common defense and security.".

SEC. 11. Prior to entering into any subsequent arrange-

~~ments under an agreement for cooperation other than agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954, as amended, the Energy Research and Development Administration shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of other concerned agencies and departments, including the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to all subsequent arrangements which have significance for nuclear explosive purposes, to assure that the subsequent arrangements are consistent with the agreement for cooperation and the policy of preventing the proliferation of nuclear explosive devices. For purposes of this subsection, the term "subsequent arrangements" shall include: contracts for the furnishing of source or special nuclear material; approvals for the reexport of materials, facilities, components, or substances previously exported pursuant to an agreement for cooperation; authorization for the distribution of source or special nuclear material pursuant to the Atomic Energy Act; arrangements for physical security; arrangements for the reprocessing or storage of irradiated nuclear fuel; arrangements for the application of safeguards with respect to United States supplied materials, facilities, components, or sub-~~

~~stances; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation of nuclear explosive devices.~~

~~SEC. 12. Section 54 a. of the Atomic Energy Act of 1954, as amended, is amended, by inserting the following as the second sentence thereof: "The authority of the Energy Research and Development Administration to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient): (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".~~

~~SEC. 13. Subsection 57 b. of the Atomic Energy Act of 1954, as amended, is amended, to read as follows:~~

~~"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such~~

activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Administrator shall be made only after consultation with the Department of State, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission under mutually agreed to procedures which shall be established within not more than ninety days after the date of enactment of this proviso. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SEC. 14. Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following sections:

"SEC. 111. EXPORT LICENSING PROCEDURES.

"a. Following enactment of this section, no license may be issued by the Commission for the export of any production or utilization facility, any source material or special nuclear material, or any component which could be of significance for nuclear explosive purposes, and no exemption from any requirement for such an export license may be granted by the Commission, until the Commission has furnished a copy of such application or proposed exemption to the Secretary of State, and has been notified by the Secretary

of State that, in his judgment, the issuance of the license or grant of the exemption will not be inimical to the common defense and security.

"b. In making the judgment called for by subsection a., the Secretary of State shall obtain the views of other concerned departments and agencies, including a Nuclear Proliferation Assessment Statement from the Arms Control and Disarmament Agency, in accordance with procedures established by the President. The procedures shall include provision of appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Nuclear Regulatory Commission to carry out its export licensing functions.

"c. Within one hundred and twenty days of the effective date of this section, the Commission shall promulgate regulations relating to the procedures which will apply to the review of applications for licenses for export under its jurisdiction. Among other things, the procedures shall provide that if one or more Commissioners have dissenting views on the issuance of an export license, the Commission decision shall be supported by a public written opinion accompanied by any such dissenting views.

"d. No court shall have any jurisdiction under any law to compel the performance of, or to review the adequacy of

~~the performance of, any Nuclear Proliferation Assessment Statement called for in this section and elsewhere in this Act.~~

~~"SEC. 12. PRINCIPLES GOVERNING UNITED STATES NUCLEAR EXPORTS.~~

~~"a. Until the criteria called for in subsection 15(a) of this Act are placed in effect by binding international arrangements, the United States adopts, in the interim, as a matter of policy, the following principles which, in addition to other requirements of law, will govern its export for peaceful nuclear uses of source material and special nuclear material or of any production or utilization facilities, or any technology, component, or substance which could be of significance for nuclear explosive purposes:~~

~~"(1) Assurance that IAEA safeguards or their equivalent shall be applied with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.~~

~~"(2) Assurance that no such material, facility, technology, component, or substance, and no special nuclear material produced through the use of such material, facility, technology, component, or substance will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.~~

"(3) Assurance that adequate physical security measures will be imposed and maintained with respect to such material, facility, component, or substance, and to any special nuclear material produced through the use thereof.

"(4) Assurance that no such material, facility, technology, component, or substance, and no special nuclear material produced through the use thereof, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agree to accept all applicable conditions imposed by the United States on the original transfer.

"(5) Assurance that no such material, and no special nuclear material used in or produced through the use of such material, facility, component, or substance, will be reprocessed, and no irradiated fuel elements containing such material will be removed from a reactor and altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

"(6) Where appropriate, assurance that the recipient country will apply the foregoing conditions to any

~~such material or facility which is produced or constructed by or through the use of any such material, facility, technology, component, or substance.~~

~~"b. The Nuclear Regulatory Commission shall not issue any export license for such material, facilities, or components, or give its approval for the export of substances covered by subsection a. of this section, and the Energy Research and Development Administration shall not distribute any source or special nuclear material under sections 54 and 64 of the Atomic Energy Act of 1954, as amended, until the Commission or the Administration, as the case may be—~~

~~"(1) finds that the principles in subsection a. or their equivalent, and any others which the Commission or the Administration, as the case may be, deems necessary to meet the applicable statutory requirements of the Atomic Energy Act of 1954, as amended, will be adhered to by the government of the recipient country in a manner acceptable to the United States; and~~

~~"(2) receives advice, in accordance with procedures established under subsection 111 b., that it is the judgment of the Department of State and other concerned executive branch agencies and departments that the proposed export would not be inimical to the common defense and security of the United States.~~

~~"c. Subsequent to the independent determination by the~~

Commission in accordance with subsections 112 (a) and (b) that any export license for such material, facilities, components, or substances not be issued, the President may by Executive order, effective not less than sixty days following its date of promulgation, approve the export, if he determines and certifies in writing, with supporting reasons, to the Congress that—

"(1) the export is required to avoid a serious adverse effect on vital United States interests;

"(2) the export will not substantially assist a non-nuclear weapons state in acquiring the capability or the material to develop nuclear explosives of any kind; and

"(3) he has received reliable assurances from the recipient country that such country will not acquire or develop nuclear explosives of any kind or assist other nations in doing so.".

SEC. 15. (a) The President is directed to take immediate steps to assure that a maximum effort is made on behalf of the United States promptly upon enactment of this Act to have all of the other nuclear-supplier nations commit themselves to binding international arrangements under which each supplier nation will be committed to adhere to all of the criteria set forth below in all of their international nuclear trade which could be of significance for nuclear explosive purposes:

~~(1) assurances shall be received from non-nuclear-weapon states that Agency safeguards shall be applied with respect to all nuclear activities in, under the jurisdiction of, or carried out under the control of that state;~~

~~(2) assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance will be used for nuclear explosive devices for any purpose or for research or development of nuclear explosive devices for any purpose;~~

~~(3) assurances shall be received that the recipient country will impose and maintain physical security measures for all of its nuclear activities to insure protection against acts of theft or sabotage;~~

~~(4) assurances shall be received that no imported or indigenously developed material, facility, technology, component, or substance, and no special nuclear material produced through the use of any imported or indigenously developed material, facility, technology, component, or substance shall be transferred to the jurisdiction of any other nation or group of nations unless such nation~~

~~or group of nations agree to apply the controls set forth in this subsection;~~

~~(5) assurances shall be received from non-nuclear supplier nations that—~~

~~(A) they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities and the stockpiling of weapons-grade material on a national basis, and will place any existing facilities and stockpiles under effective international auspices, management, and inspection;~~

~~(B) no imported material and no special nuclear material used in or produced through the use of any imported material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, and such material will be returned to the exporting country or to a facility under effective international auspices, management, and inspection located outside the jurisdiction of the recipient country; and~~

~~(C) no indigenously developed material or special nuclear material used in or produced through~~

~~the use of any indigenously developed material, facility, technology, component, or substance will be reprocessed by the recipient country, and no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient country, except in a facility under effective international auspices, management, and inspection.~~

~~"(b) Upon the effective date of such international arrangements called for in subsection (a), the Commission shall apply the criteria set forth in subsection (a) to all of its approvals of applications for the export for peaceful nuclear uses of source material and special nuclear material, or any production or utilization facilities, or any technology, components, or substances, which could be of significance for nuclear explosive purposes.~~

~~SEC. 16. Section 109 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:~~

~~"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—~~

~~"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to~~

be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsection 11 v. or 11 cc. of the Atomic Energy Act of 1954, as amended, and which other items or substances that are intended for end-use in a production or utilization facility, are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. No such component, substance, or item which is so determined by the Commission, shall be exported unless the Commission issues a general or specific license for its export, after determining in writing that the issuance of each such general or specific license will not constitute an unreasonable risk to the common defense and security.

"c. The Commission, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Energy Research and Development Administration, and the Arms Control and Disarmament Agency, which shall furnish a Nuclear Proliferation Assessment Statement with respect to the proposed issuance of any

~~general or specific license for such export which has significance for nuclear explosive purposes.~~

~~"d. The Commission shall not issue an export license under the authority of subsection (a) if it is advised by the executive branch, in accordance with the procedures established under subsection 111 b., that the export would be inimical to the common defense and security of the United States.~~

~~"e. The President, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultation, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Energy Research and Development Administration. The Commerce Department shall not issue a license for any such export which could be of significance for nuclear explosive purposes if it is advised by any of the foregoing agencies or departments that the export would be inimical to the common defense and security of the United States.".~~

~~CONGRESSIONAL OVERSIGHT OF NUCLEAR EXPORT ACTIVITIES~~

~~SEC. 17. (a) The President shall review all activities of Government departments and agencies relating to preventing the proliferation of nuclear explosive devices and shall make an annual report to Congress within not more than one year after the date of enactment of this Act and annually in January of each year thereafter on the Government's efforts to prevent such proliferation. This report is to include but not be limited to—~~

~~(1) a description of the progress made toward—~~

~~(i) achieving adoption and adherence to the international arrangements contemplated in section 5 of this Act;~~

~~(ii) promoting adherence to the Treaty on the Non-Proliferation of Nuclear Weapons, and discouraging or prohibiting nuclear exports to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and forsaking the development of any nuclear explosive devices;~~

~~(iii) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 5 of this Act; and~~

~~(iv) accomplishing the initiatives contemplated in section 5 of this Act;~~

~~(2) an analysis of each agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and peaceful or civil uses contained in each agreement and a discussion of the adequacy of such requirements and obligations to protect the interests of the United States and to maintain its obligations to prevent the further proliferation of nuclear explosive devices; and~~

~~(3) a determination as to which agreements for cooperation negotiated pursuant to section 123 of the Atomic Energy Act should be modified because they are inconsistent with the interests and obligations of the United States. In making such determinations, the President shall discuss whether each agreement prohibits the following activities and whether such activities have been engaged in by the recipient country—~~

~~(i) the explosion of a nuclear device by a non-nuclear-weapon state;~~

~~(ii) the refusal by a non-nuclear-weapon state to accept the safeguards of the IAEA on all its nuclear activities; and~~

~~(iii) the refusal by a non-nuclear-weapon state to give a specific assurance that it will not engage in the development of any nuclear explosive device.~~

~~(b) The annual reports to the Congress by the Nuclear Regulatory Commission and the Energy Research and Development Administration which are otherwise required by law shall also include recommendations and accomplishments regarding the policies and actions of the United States to prevent the proliferation of nuclear explosive devices which are the statutory responsibility of those agencies. The Administration's report shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques for the proliferation of nuclear explosive devices. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Joint Committee on Atomic Energy and a summary unclassified version.~~

~~(c) The reporting requirements of this section are in addition to and not in lieu of any other reporting requirements under applicable law.~~

~~(d) The Department of State, the Arms Control and Disarmament Agency, and the Department of Commerce shall keep the Joint Committee fully and currently informed with respect to their activities to effectuate the purposes and~~

~~policies of this Act and to otherwise prevent the proliferation of nuclear explosive devices.~~

~~AUTHORIZATIONS~~

~~SEC. 18. (a) There is hereby authorized to be appropriated $2,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: *Provided*, That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.~~

~~(b) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission an additional sum of $2,500,000 for fiscal year 1977, which sum to remain available until expended, for the purpose of exercising its export licensing responsibilities pursuant to this Act.~~

~~DEFINITIONS~~

~~SEC. 19. As used in this Act:~~

~~(a) The term "nuclear fuel services" means uranium enrichment services, nuclear fuel fabrication services or other services relating to the use of source or special nuclear material as fuel in a reactor.~~

~~(b) The term "nuclear materials and equipment" means~~

~~source material, special nuclear material, production facilities, and utilization facilities.~~

~~(c) The term "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.~~

~~(d) The term "safeguards" means a system of controls designed to insure that any materials, equipment, components, or substances subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.~~

~~(e) The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof, or in a nuclear-related substance) the transfer of which to any foreign recipient requires a specific authorization from the Administrator under subsection 57 b. (2) of the Atomic Energy Act of 1954, as amended.~~

~~(f) The term "significance for nuclear explosive purposes" means any source or special nuclear material, any production or utilization facility, component, item, or substance, which could materially assist a foreign recipient in developing a nuclear explosive device for any purpose whatsoever.~~

~~(g) The term "non-nuclear-supplier-nations" means every nation other than those which are parties to the binding~~

international arrangements called for in section 15 of this Act.

(h) The term "nuclear-supplier-nations" means the United States, the United Kingdom, France, the Federal Republic of Germany, Japan, the Union of Soviet Socialist Republics, Canada, the Netherlands, Switzerland, and such other countries as the President may determine.

(i) All other terms used in this Act shall have the meanings ascribed to them by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Treaty on the Non-Proliferation of Nuclear Weapons.

SAVINGS PROVISION

SEC. 19. All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or office, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction; and,

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or

~~repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.~~

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to nonnuclear-weapon states, and the rising technical capabilities of many nations making possible, and in some cases likely, the independent development of at least a small scale nuclear fuel reprocessing capability, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and sensitive nuclear technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;

(b) insure that the actions of the United States in international nuclear commerce in helping to assure ade-

quate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty"), the Statute of the International Atomic Energy Agency ("the statute") and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment, materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements

for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed aqreements for cooperation and amendments thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing principles which would be applied immediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements or other mutual undertakings which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish—

(1) effective international proliferation controls and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which

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are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates any material obligation with respect to the peaceful use of nuclear materials, equipment, or sensitive nuclear technology, or the principles of the treaty; and

(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials which could be of significance for nuclear explosive purposes; and

(f) increased support to be given the International Atomic Energy Agency ("the IAEA").

UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

SEC. 4. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, that it will provide a reliable supply of nuclear fuel services to those nations or groups of nations which adhere to policies designed to prevent the proliferation of nuclear explosive devices. Such nuclear fuel services shall

be provided under agreements entered into pursuant to section 161 of the Atomic Energy Act of 1954, as amended, or as otherwise authorized by law. The United States will make its best efforts to assure that it will have available the capacity to carry out this policy on a long-term basis. The United States, as a matter of national policy shall issue export licenses for, or otherwise authorize export of nuclear materials and equipment, within a reasonable time, upon a determination that all the applicable statutory requirements are met.

SEC. 5. The United States shall institute immediate initiatives—

(a) to seek to negotiate with other nations, including the nuclear supplier nations, one or more international arrangements or other mutual undertakings to—

(1) assure that nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities shall be transferred internationally only to nations or groups of nations which afford undertakings in compliance with the principles set forth in subsection 15(a) of this Act sufficient to insure that such materials, equipment, and sensitive nuclear technology will not be used in, or for the purposes of developing any nuclear explosive devices;

(2) require that special nuclear material exported by or in the possession of the parties to any such international arrangements or other mutual undertaking and that all special nuclear material produced in or through the use of any nuclear material or equipment transferred internationally by such parties, be subject to adequate physical security measures to insure their protection against acts of terrorism, sabotage, and theft;

(3) establish international standards of physical security and effective provision for application thereof;

(4) adopt general principles and procedures to be followed in the event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty, or any material undertaking with respect to the peaceful use of nuclear materials, equipment, or sensitive nuclear technology; and

(5) establish international procedures for recovering nuclear materials that have been stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the treaty;

(b) to assure all nations of the world that the

United States, as a matter of national policy, will not act in a manner which would reduce the comprehensiveness or effectiveness of international safeguards or physical security guidelines agreed to or adopted by all nuclear supplier nations;

(c) to assure all nations of the world that the United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually seek to act with other nations to strengthen the IAEA through contribution of technical resources, support funding, and by—

(1) continuing to strengthen the safeguards program of the IAEA and, in order to implement this initiative, contribute funds to assist the IAEA in effectively implementing safeguards at this time when international utilization of nuclear power for growing energy needs is rapidly increasing;

(2) assuring that the IAEA has the resources to carry out the provisions of article XII ("agency safeguards") of the statute, including support needed to provide for the storage under international

supervision of plutonium and other special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;

(3) improving the IAEA safeguards system, including accountability to insure—

(i) the detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices;

(ii) the timely dissemination of information regarding such diversion; and

(iii) the application of procedures in the event of such diversion;

(4) assuring that the IAEA both receives the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of violation of safeguards agreements to which it is a party; and

(d) consistent with the policies of this Act, to devise feasible approaches for the development under effective international auspices and management of nuclear fuel cycle facilities and the possible location of such facilities at specific sites;

(e) to seek renegotiation of agreements for cooperation where warranted to promote United States nonproliferation interests.

SEC. 6. The President shall take such steps as may be necessary to implement the policies and initiatives of this Act fully and in a timely manner through the most vigorous efforts by the United States in concert with the IAEA and the nuclear exporting and importing nations, and through the submission of proposed legislation to the Congress.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 7. The Energy Research and Development Administration, in consultation with the Nuclear Regulatory Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from countries which have, or may be expected to develop or acquire nuclear materials or equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with national security interests of the United States.

CLARIFICATION OF EXPORT FUNCTIONS

SEC. 8. Subsection 123 a. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) by deleting the introductory words thereof before the words "proposed agreement shall include" and

substituting therefor the following: "the proposed agreement for cooperation has been submitted to the President, which";

(b) by amending subsection 123 a. (3) by inserting a comma after the words "military purpose" and adding the words "or for any nuclear explosive device for any purpose whatsoever"; and

(c) by deleting the semicolon at the end of subsection 123a. (4) and inserting the following: "and (5) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that, upon the request of the Government of the United States, the cooperating party will consult with the Government of the United States for the purpose of determining whether the terms and conditions thereof relating to safeguards, other control mechanisms, and any peaceful use assurances contained therein should be amended. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Administrator of Energy Research and Deveolpment, and shall be submitted to the President jointly by the Secretary of State and the Administrator

only after consultation with the Nuclear Regulatory Commission. Any such agreement shall be accompanied by the recommendations of the Secretary of State and the Administrator, and the views of the Director of the Arms Control and Disarmament Agency regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;".

SEC. 9. (a) The amendments to section 123 a. of the Atomic Energy Act of 1954, as amended, made by section 8. of this Act shall not apply to agreements for cooperation entered into prior to the effective date of this Act.

(b) In the first sentence of subsection 123 d., strike out all after the words "has been submitted to the Congress" and insert in lieu thereof the following: "and referred jointly to

the Joint Committee on Atomic Energy for its consideration of such matters as fall within its jurisdiction under section 202 of this Act and to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for their consideration of all other matters and a period of sixty days has elapsed while Congress is in session (in computing such sixty days there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: Provided, That prior to the elapse of the first forty-five days of any such sixty-day period such committees shall submit reports to the Congress of their views and recommendations respecting the proposed agreement, and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation.".

(c) The last sentence of such subsection is amended by striking out "twenty-five" and inserting in lieu thereof "ten".

SEC. 10. Section 123 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsection:

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Joint Committee on Atomic Energy, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives, the Nuclear Regulatory Commission shall promptly furnish to such committees its views as to whether the safeguards and other controls contained therein provide an adequate framework to insure that the export of any source or special nuclear material, or any production or utilization facility as contemplated by such agreement, will not be inimical to or constitute an unreasonable risk to the common defense and security.".

SEC. 11. Prior to entering into any subsequent arrangements under an agreement for cooperation other than agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954, as amended, the Energy Research and Development Administration shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of other concerned agencies and departments, including the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, to assure that the subsequent arrangements are consistent with the agree-

ment for cooperation and the policy of preventing the proliferation of nuclear explosive devices. For purposes of this subsection, the term "subsequent arrangements" shall include: contracts for the furnishing of nuclear materials or equipment; approvals for the reexport of nuclear materials, or equipment previously exported pursuant to an agreement for cooperation; authorization for the distribution of nuclear materials or equipment pursuant to the Atomic Energy Act; arrangements for physical security; arrangements for the reprocessing or storage of irradiated nuclear fuel; arrangements for the application of safeguards with respect to United States supplied nuclear materials or equipment; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation of nuclear explosive devices.

SEC. 12. Section 54 a. of the Atomic Energy Act of 1954, as amended, is amended, by inserting the following as the second sentence thereof: "The authority of the Energy Research and Development Administration to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission or under an authorization granted by the President in accordance with section 112 shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear mate-

rial to any recipient): (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

SEC. 13. Subsection 57 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States: Provided, That any such determination by the Administrator shall be made only after consultation with the Department of State, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission under mutually-agreed-to procedures which shall be established within not more than ninety days after the date of enactment of this proviso. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SEC. 14. Chapter 10 of the Atomic Energy Act of

1954, as amended, is amended by adding thereto the following sections:

"SEC. 111. EXPORT LICENSING PROCEDURES.—

"a. Following enactment of this section, no license may be issued by the Commission for the export of any production or utilization facility, or any source material or special nuclear material, and no exemption from any requirement for such an export license may be granted by the Commission, until the Commission has furnished a copy of such application or proposed exemption to the Secretary of State, and has been notified by the Secretary of State that, in his judgment, the issuance of the license or grant of the exemption will not be inimical to the common defense and security.

"b. In making the judgment called for by subsection a., the Secretary of State shall obtain the views of other concerned departments and agencies, including the Energy Research and Development Administration, the Department of Commerce, and the Arms Control and Disarmament Agency, in accordance with procedures established by the President. The procedures shall include provision of appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Nuclear Regulatory Commission to carry out its export licensing functions.

"c. Within one hundred and twenty days of the effective date of this section, the Commission shall promulgate regulations relating to the procedures which will apply to the review of applications for licenses for export under its jurisdiction. Among other things, the procedures shall provide that if one or more Commissioners have dissenting views on the issuance of an export license, the Commission decision shall be supported by a public written opinion accompanied by any such dissenting views.

"SEC. 112. PRINCIPLES GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"a. Until the principles called for in section 15 of this Act are placed in effect, the United States adopts, in the interim, as a matter of policy, the following principles which, in addition to other requirements of law, will govern its export for peaceful nuclear uses of source material and special nuclear material or of any production or utilization facilities, or any sensitive nuclear technology which could be of significance for nuclear explosive purposes:

"(1) Assurance that IAEA safeguards as required by article III(2) of the treaty shall be applied with respect to such material, or equipment and to any special nuclear material produced through the use thereof.

"(2) No such material, equipment, or sensitive nuclear technology and no special nuclear material pro-

duced through the use of such nuclear materials, equipment, or sensitive nuclear technology will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such nuclear material or equipment and to any special nuclear material produced through the use thereof.

"(4) No such nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use thereof, will be retransferred to the jurisdiction of any other nation or group of nations except under conditions acceptable to the United States. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions stated in subparagraphs (1), (2), (3), and (5).

"(5) No such nuclear material, and no special nuclear material used in or produced through the use of such nuclear material or equipment will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration,

or unless in the judgment of the United States, such reprocessing or alteration will be under other conditions which will advance the United States nonproliferation objective of discouraging the further spread of national reprocessing facilities.

"(6) The foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed in the recipient nation or group of nations by or through the use of any exported sensitive nuclear technology.

"b. The Nuclear Regulatory Commission shall not issue any export license for nuclear materials or equipment, and the Energy Research and Development Administration shall not distribute any source or special nuclear material under sections 54 and 64 of the Atomic Energy Act of 1954, as amended, until the Commission or the Administration, as the case may be—

"(1) finds that the principles in subsection a. or their equivalent, and any other applicable statutory requirements of the Atomic Energy Act of 1954, as amended, will be adhered to by the recipient nation or group of nations in a manner acceptable to the United States; and

"(2) receives advice, in accordance with procedures established under subsection 111 b., that it is the judg-

ment of the Department of State and other concerned executive branch agencies and departments that the proposed export would not be inimical to the common defense and security of the United States. In submitting such judgment, the Secretary of State shall specifically address the extent to which the foregoing criteria are met. In addition, in the event he considers it warranted, he may address the following additional factors, among others:

"(a) that issuance of the license will materially advance the nonproliferation goals of the United States by encouraging the recipient nation to adhere to the treaty, or to participate in the undertakings contemplated by section 15 of the Nuclear Explosive Proliferation Control Act of 1976;

"(b) that failure to issue the license would otherwise be seriously prejudicial to the nonproliferation objectives of the United States.

"c. In the event the Commission, after receiving from the Secretary of State his judgment that the issuance of the proposed export license will not be inimical to the common defense and security, does not, after due consideration and within a reasonable time, issue the proposed license because it is unable to determine that issuance of the license will not be inimical to the common defense and security, or because

it determines that issuance of the license would be inimical to the common defense and security, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. In its decision, which shall not be a final order for the purpose of section 189 b. of this Act, the Commission shall explain the basis for its finding, and shall include any dissenting views of individual Commissioners. If, after receiving the proposed license, the President determines that withholding the proposed license would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, the President may authorize the proposed export. The President's authorization shall be accompanied by an explanation of the reasons why the export has been authorized.".

SEC. 15. (a) The President shall take immediate steps to assure that a maximum effort is made on behalf of the United States promptly upon enactment of this Act to seek to have all nations, including the nuclear-supplier nations commit themselves to international arrangements and other mutual undertakings under which each nation will be committed to adhere to all of the criteria set forth below in all of its international nuclear trade which could be of significance for nuclear explosive purposes;

(1) assurances shall be received from non-nuclear-weapon states that IAEA safeguards shall be applied with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

(2) assurances shall be received from non-nuclear-weapon states that no imported or indigenously developed nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use of any imported or indigenously developed nuclear materials, equipment, or sensitive nuclear technology will be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose;

(3) assurances shall be received that all nations and groups of nations will establish and maintain adequate physical security measures for all of its nuclear activities to insure protection against acts of theft or sabotage;

(4) assurances shall be received from all nations and groups of nations that no nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use of any nuclear materials, equipment, or sensitive nuclear technology, shall be transferred by them to the jurisdiction of any other

nation or group of nations unless such nation or group of nations provides the assurances set forth in this subsection;

(5) assurances shall be received from all nations or groups of nations either—

(i)(A) that they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities on a national basis, and will place any existing facilities under effective international auspices, management, and inspection;

(B) that no imported nuclear material and no special nuclear material used in or produced through the use of any imported nuclear materials, equipment, or sensitive nuclear technology will be reprocessed by the recipient nation or group of nations, and no fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient nation or group of nations, and such material will be returned to an exporting nation or to a facility under effective international auspices, management, and inspection; and

(C) that no indigenously developed nuclear material or special nuclear material used in or produced through the use of any indigenously developed nuclear materials, equipment, or sensitive nuclear tech-

nology will be reprocessed by the recipient nation or group of nations, and no irradiated fuel elements containing such nuclear material which are to be removed from a reactor will be altered in form or content by the recipient nation or group of nations, except in a facility of an exporting nation or a facility under effective international auspices, management, and inspection; or

(ii) sufficient to permit a judgment on the part of the exporting nation that no nuclear material will be reprocessed and that no irradiated fuel elements containing such material will be altered in form or content by the recipient nation or group of nations except under conditions which will minimize the likelihood of national diversion, theft, or sabotage and which will advance the nonproliferation objective of discouraging the further spread of national reprocessing facilities, including assurances to cooperate in providing nuclear fuel services to nations or groups of nations that agree to forego the development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities on a national basis;

(6) assurances shall be received from all non-nuclear weapon states that they will forego the stockpiling

of weapons-grade material on a national basis and will place any existing stockpiles under effective international auspices, management, and inspection.

(b) At such time as any international arrangement or other mutual undertaking contemplated in subsection (a) has been entered into, the President shall propose such amendments to section 112 of the Atomic Energy Act of 1954, as amended, as appropriate to take into account the contents of such arrangement or undertaking. Upon the effective date of legislation implementing the international arrangements or other mutual undertakings called for in subsection (a), the Commission and the Administration shall apply the criteria set forth in such legislation to all of its approvals of applications for the export for peaceful nuclear uses of source material and special nuclear material, or any production or utilization facilities.

SEC. 16. Section 109 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines

in writing that such general licensing will not be inimical to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsection 11 v. or 11 cc. of the Atomic Energy Act of 1954, as amended, that are intended for end-use in a production or utilization facility, are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in subsection 112(c), no such component, which is so determined by the Commission, shall be exported unless the Commission issues a general or specific license for its export, after determining in writing that the issuance of each such general or specific license will not be inimical to the common defense and security.

"c. The Commission, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Energy Research and Development Administration, and the Arms Control and Disarmament Agency.

"d. The Commission shall not issue an export license under the authority of subsection (a) if it is advised by the executive branch, in accordance with the procedures estab-

lished under subsection 111 b., that the export would be inimical to the common defense and security of the United States.

"e. The President, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultation, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Energy Research and Development Administration.

CONGRESSIONAL OVERSIGHT OF NUCLEAR EXPORT ACTIVITIES

SEC. 17. (a) The President shall review all activities of Government departments and agencies relating to preventing the proliferation of nuclear explosive devices and shall make an annual report to Congress within not more than one year after the date of enactment of this Act and annually in January of each year thereafter on the Government's efforts to prevent such proliferation. This report is to include but not be limited to—

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(1) a description of the progress made toward—

(i) negotiating the international arrangements or other mutual undertakings contemplated in sections 5 and 15 of this Act;

(ii) promoting adherence to the Treaty on the Non-Proliferation of Nuclear Weapons, and discouraging or prohibiting nuclear exports to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and forsaken the development of any nuclear explosive devices;

(iii) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 5 of this Act; and

(iv) accomplishing the initiatives contemplated in section 5 of this Act;

(2) an analysis of each civil agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and other controls contained therein; and

(3) an assessment of the impact of the progress which has been made on the nonproliferation goals of the United States; and a statement of what legislative modifi-

cations, if any, are necessary in his judgment to achieve the nonproliferation goals of the United States.

(b) The annual reports to the Congress by the Nuclear Regulatory Commission and the Energy Research and Development Administration which are otherwise required by law shall also include recommendations and accomplishments regarding the policies and actions of the United States to prevent the proliferation of nuclear explosive devices which are the statutory responsibility of those agencies. The Administration's report shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques for the proliferation of nuclear explosive devices. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Joint Committee on Atomic Energy and a summary unclassified version.

(c) The reporting requirements of this section are in addition to and not in lieu of any other reporting requirements under applicable law.

(d) The Department of State, the Arms Control and Disarmament Agency, and the Department of Commerce shall keep the Joint Committee, the Committee of Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives, fully and current-

ly informed with respect to their activities to effectuate the purposes and policies of this Act and to otherwise prevent the proliferation of nuclear explosive devices.

(e) Any classified portions of the report required by subsection (a) shall be submitted to the Joint Committee on Atomic Energy, the Senate Foreign Relations Committee, and the House International Relations Committee.

AUTHORIZATIONS

SEC. 18. (a) There is hereby authorized to be appropriated $2,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: Provided, That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.

(b) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission an additional sum of $2,500,000 for fiscal year 1977, which sum to remain available until expended, for the purpose of exercising its export licensing responsibilities pursuant to this Act.

DEFINITIONS

SEC. 19. As used in this Act:

(a) The term "nuclear fuel services" means uranium

enrichment services, nuclear fuel fabrication services or other services relating to the use of source or special nuclear material as fuel in a reactor.

(b) The term "nuclear materials and equipment" means source material, special nuclear material, production facilities, and utilization facilities, or export items designated by the President pursuant to subsection 109 e. of the Atomic Energy Act of 1954, as amended.

(c) The term "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

(d) The term "safeguards" means a system of controls designed to insure that any materials, equipment, components, or substances subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

(e) The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof, or in a nuclear-related substance) which is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water.

(f) All other terms used in this Act shall have the

meanings ascribed to them by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Treaty on the Non-Proliferation of Nuclear Weapons.

SAVINGS PROVISION

SEC. 20. All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or office, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction; and,

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

Calendar No. 1266

94TH CONGRESS
2D SESSION

S. 3853

[Report No. 94–1336]

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 1976

MR. PASTORE, from the Joint Committee on Atomic Energy, reported the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To provide for more efficient and effective control over the proliferation of nuclear explosives by amendments to the Atomic Energy Act of 1954, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Explosive Proliferation Control Act of 1976".

STATEMENT OF POLICY

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive devices poses a grave threat to vital United States interests and continued international progress toward world peace and development. Recent events, including the explosion of a nuclear device by India

and the announcement of the transfer of uranium enrichment and nuclear fuel reprocessing facilities to nonnuclear-weapon states, and the rising technical capabilities of many nations making possible, and in some cases likely, the independent development of at least a small scale nuclear fuel reprocessing capability, emphasize the urgency of this threat and the imperative need to increase the scope, comprehensiveness, and effectiveness of international safeguards and controls on peaceful nuclear activities to prevent further proliferation of nuclear explosive devices. Accordingly, it is the policy of the United States to—

(a) actively pursue the establishment of effective international controls over the transfer and use of nuclear equipment, material, and sensitive nuclear technology for peaceful purposes which will prevent the further proliferation of nuclear explosive devices;

(b) insure that the actions of the United States in international nuclear commerce in helping to assure adequate and reliable energy supplies to other nations are consistent with the Treaty on the Non-Proliferation of Nuclear Weapons ("the treaty") the Statute of the International Atomic Energy Agency ("the statute") and the need to establish effective controls on the proliferation of nuclear explosive devices through international arrangements and cooperative agreements; and

(c) encourage nations which have not ratified the treaty to do so at the earliest possible date.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth above by insuring effective control by the United States over its exports of nuclear equipment, materials, and sensitive nuclear technology, by establishing a framework for international cooperation to insure that the worldwide development of peaceful nuclear activities as well as the export by any nation of nuclear equipment, materials, and sensitive nuclear technology intended for use in peaceful nuclear activities do not contribute to the proliferation of nuclear explosive devices, and by providing incentives to the other nations of the world to join in such international cooperative efforts. Accordingly, this Act specifies—

(a) provisions to insure the full and comprehensive assessment of the risks of proliferation of nuclear explosive devices in the negotiation and review of agreements for cooperation and subsequent arrangements under such agreements, and of policies affecting the proliferation of nuclear explosive devices;

(b) procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments

thereto and to review the policies of the United States affecting the proliferation of nuclear explosive devices;

(c) licensing principles which would be applied immediately to all future exports by the United States of nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities and which could be of significance for nuclear explosive purposes;

(d) preferential treatment in the provision of nuclear fuel services to nations which agree to adhere to policies designed to prevent the proliferation of nuclear explosive devices;

(e) international arrangements or other mutual undertakings which the United States shall seek to negotiate with other nations, including the nuclear supplier nations, to establish—

(1) effective international proliferation controls and supervision to assure that nuclear materials, equipment, and sensitive nuclear technology which are intended for use in peaceful nuclear activities do not contribute to the development of nuclear explosive devices;

(2) procedures to be followed in the event a nation violates any material obligation with respect to the peaceful use of nuclear materials, equipment.

or sensitive nuclear technology, or the principles of the treaty; and

(3) procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials which could be of significance for nuclear explosive purposes; and

(f) increased support to be given the International Atomic Energy Agency ("the IAEA").

UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

SEC. 4. The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, that it will provide a reliable supply of nuclear fuel services to those nations or groups of nations which adhere to policies designed to prevent the proliferation of nuclear explosive devices. Such nuclear fuel services shall be provided under agreements entered into pursuant to section 161 of the Atomic Energy Act of 1954, as amended, or as otherwise authorized by law. The United States will make its best efforts to assure that it will have available the capacity to carry out this policy on a long-term basis. The United States, as a matter of national policy shall issue ex-

port licenses for, or otherwise authorize export of nuclear materials and equipment, within a reasonable time, upon a determination that all the applicable statutory requirements are met.

SEC. 5. The United States shall institute immediate initiatives—

(a) to seek to negotiate with other nations, including the nuclear supplier nations, one or more international arrangements or other mutual undertakings to—

(1) assure that nuclear materials, equipment, and sensitive nuclear technology intended for use in peaceful nuclear activities shall be transferred internationally only to nations or groups of nations which afford undertakings in compliance with the principles set forth in subsection 15(a) of this Act sufficient to insure that such materials, equipment, and sensitive nuclear technology will not be used in, or for the purposes of developing any nuclear explosive devices;

(2) require that special nuclear material exported by or in the possession of the parties to any such international arrangements or other mutual undertaking and that all special nuclear material produced in or through the use of any nuclear material or equipment transferred internationally by

such parties, be subject to adequate physical security measures to insure their protection against acts of terrorism, sabotage, and theft;

(3) establish international standards of physical security and effective provision for application thereof;

(4) adopt general principles and procedures to be followed in the event that any nation violates the principles of the treaty, whether or not such nation is a party to the treaty, or any material undertaking with respect to the peaceful use of nuclear materials, equipment, or sensitive nuclear technology; and

(5) establish international procedures for recovering nuclear materials that have been stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the treaty;

(b) to assure all nations of the world that the United States, as a matter of national policy, will not act in a manner which would reduce the comprehensiveness or effectiveness of international safeguards or physical security guidelines agreed to or adopted by all nuclear supplier nations;

(c) to assure all nations of the world that the

United States, as a matter of national policy, is committed to a strong and effective IAEA and to a comprehensive safeguards system administered by that agency to prevent the further proliferation of nuclear explosives. Accordingly, the United States will continually seek to act with other nations to strengthen the IAEA through contribution of technical resources, support funding, and by—

(1) continuing to strengthen the safeguards program of the IAEA and, in order to implement this initiative, contribute funds to assist the IAEA in effectively implementing safeguards at this time when international utilization of nuclear power for growing energy needs is rapidly increasing;

(2) assuring that the IAEA has the resources to carry out the provisions of article XII ("agency safeguards") of the statute, including support needed to provide for the storage under international supervision of plutonium and other special nuclear material which is sensitive from the standpoint of preventing the proliferation of nuclear explosive devices;

(3) improving the IAEA safeguards system, including accountability to insure—

(i) the detection of a possible diversion of

special nuclear materials which could be used for nuclear explosive devices;

(ii) the timely dissemination of information regarding such diversion; and

(iii) the application of procedures in the event of such diversion;

(4) assuring that the IAEA both receives the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of violation of safeguards agreements to which it is a party; and

(d) consistent with the policies of this Act, to devise feasible approaches for the development under effective international auspices and management of nuclear fuel cycle facilities and the possible location of such facilities at specific sites;

(e) to seek renegotiation of agreements for cooperation where warranted to promote United States nonproliferation interests.

SEC. 6. The President shall take such steps as may be necessary to implement the policies and initiatives of this Act fully and in a timely manner through the most vigorous efforts by the United States in concert with the IAEA and

the nuclear exporting and importing nations, and through the submission of proposed legislation to the Congress.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 7. The Energy Research and Development Administration, in consultation with the Nuclear Regulatory Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from countries which have, or may be expected to develop or acquire, nuclear materials or equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with national security interests of the United States.

CLARIFICATION OF EXPORT FUNCTIONS

SEC. 8. Subsection 123 a. of the Atomic Energy Act of 1954, as amended, is amended as follows:

(a) by deleting the introductory words thereof before the words "proposed agreement shall include" and substituting therefor the following: "the proposed agreement for cooperation has been submitted to the President, which";

(b) by amending subsection 123 a. (3) by inserting a comma after the words "military purpose" and adding the words "or for any nuclear explosive device for any purpose whatsoever"; and

(c) by deleting the semicolon at the end of subsection 123 a. (4) and inserting the following: "and (5) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that, upon the request of the Government of the United States, the cooperating party will consult with the Government of the United States for the purpose of determining whether the terms and conditions thereof relating to safeguards, other control mechanisms, and any peaceful use assurances contained therein should be amended. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Administrator of Energy Research and Development, and shall be submitted to the President jointly by the Secretary of State and the Administrator only after consultation with the Nuclear Regulatory Commission. Any such agreement shall be accompanied by the recommendations of the Secretary of State and the Administrator, and the views of the Director of the Arms Control and Disarmament Agency regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agree-

ment for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense;".

SEC. 9. (a) The amendments to section 123 a. of the Atomic Energy Act of 1954, as amended, made by section 8. of this Act shall not apply to agreements for cooperation entered into prior to the effective date of this Act.

(b) In the first sentence of subsection 123 d., strike out all after the words "has been submitted to the Congress" and insert in lieu thereof the following: "and referred jointly to the Joint Committee on Atomic Energy for its consideration of such matters as fall within its jurisdiction under section 202 of this Act and to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for their consideration of all other matters and a period of sixty days has elapsed while

Congress is in session (in computing such sixty days there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided*, That prior to the elapse of the first forty-five days of any such sixty-day period such committees shall submit reports to the Congress of their views and recommendations respecting the proposed agreement, and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation.".

(c) The last sentence of such subsection is amended by striking out "twenty-five" and inserting in lieu thereof "ten".

SEC. 10. Section 123 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following new subsection:

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Joint Committee on Atomic Energy, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives,

the Nuclear Regulatory Commission shall promptly furnish to such committees its views as to whether the safeguards and other controls contained therein provide an adequate framework to insure that the export of any source or special nuclear material, or any production or utilization facility as contemplated by such agreement, will not be inimical to or constitute an unreasonable risk to the common defense and security.".

SEC. 11. Prior to entering into any subsequent arrangements under an agreement for cooperation other than agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954, as amended, the Energy Research and Development Administration shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of other concerned agencies and departments, including the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, to assure that the subsequent arrangements are consistent with the agreement for cooperation and the policy of preventing the proliferation of nuclear explosive devices. For purposes of this subsection, the term "subsequent arrangements" shall include: contracts for the furnishing of nuclear materials or equipment; approvals for the reexport of nuclear materials, or equipment previously exported pursuant to an agreement

for cooperation; authorization for the distribution of nuclear materials or equipment pursuant to the Atomic Energy Act; arrangements for physical security; arrangements for the reprocessing or storage of irradiated nuclear fuel; arrangements for the application of safeguards with respect to United States supplied nuclear materials or equipment; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation of nuclear explosive devices.

SEC. 12. Section 54 a. of the Atomic Energy Act of 1954, as amended, is amended, by inserting the following as the second sentence thereof: "The authority of the Energy Research and Development Administration to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission or under an authorization granted by the President in accordance with section 112 shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient) : (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

SEC. 13. Subsection 57 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Administrator shall be made only after consultation with the Department of State, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission under mutually-agreed-to procedures which shall be established within not more than ninety days after the date of enactment of this proviso. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

SEC. 14. Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by adding thereto the following sections:

"SEC. 111. EXPORT LICENSING PROCEDURES.—

"a. Following enactment of this section, no license may be issued by the Commission for the export of any production or utilization facility, or any source material or special nuclear material, and no exemption from any requirement

for such an export license may be granted by the Commission, until the Commission has furnished a copy of such application or proposed exemption to the Secretary of State, and has been notified by the Secretary of State that, in his judgment, the issuance of the license or grant of the exemption will not be inimical to the common defense and security.

"b. In making the judgment called for by subsection a., the Secretary of State shall obtain the views of other concerned departments and agencies, including the Energy Research and Development Administration, the Department of Commerce, and the Arms Control and Disarmament Agency, in accordance with procedures established by the President. The procedures shall include provision of appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Nuclear Regulatory Commission to carry out its export licensing functions.

"c. Within one hundred and twenty days of the effective date of this section, the Commission shall promulgate regulations relating to the procedures which will apply to the review of applications for licenses for export under its jurisdiction. Among other things, the procedures shall provide that if one or more Commissioners have dissenting views on the issuance of an export license, the Commission decision

shall be supported by a public written opinion accompanied by any such dissenting views.

"SEC. 112. PRINCIPLES GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"a. Until the principles called for in section 15 of this Act are placed in effect, the United States adopts, in the interim, as a matter of policy, the following principles which, in addition to other requirements of law, will govern its export for peaceful nuclear uses of source material and special nuclear material or of any production or utilization facilities, or any sensitive nuclear technology which could be of significance for nuclear explosive purposes:

"(1) Assurance that IAEA safeguards as required by article III(2) of the treaty shall be applied with respect to such material, or equipment and to any special nuclear material produced through the use thereof.

"(2) No such material, equipment, or sensitive nuclear technology and no special nuclear material produced through the use of such nuclear materials, equipment, or sensitive nuclear technology will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such nuclear material or

equipment and to any special nuclear material produced through the use thereof.

"(4) No such nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use thereof, will be retransferred to the jurisdiction of any other nation or group of nations except under conditions acceptable to the United States. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions stated in subparagraphs (1), (2), (3), and (5).

"(5) No such nuclear material, and no special nuclear material used in or produced through the use of such nuclear material or equipment will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration, or unless in the judgment of the United States, such reprocessing or alteration will be under other conditions which will advance the United States nonproliferation objective of discouraging the further spread of national reprocessing facilities.

"(6) The foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed in the recipient nation or group of nations by or through the use of any exported sensitive nuclear technology.

"b. The Nuclear Regulatory Commission shall not issue any export license for nuclear materials or equipment, and the Energy Research and Development Administration shall not distribute any source or special nuclear material under sections 54 and 64 of the Atomic Energy Act of 1954, as amended, until the Commission or the Administration, as the case may be—

"(1) finds that the principles in subsection a. or their equivalent, and any other applicable statutory requirements of the Atomic Energy Act of 1954, as amended, will be adhered to by the recipient nation or group of nations in a manner acceptable to the United States; and

"(2) receives advice, in accordance with procedures established under subsection 111 b., that it is the judgment of the Department of State and other concerned executive branch agencies and departments that the proposed export would not be inimical to the common defense and security of the United States. In submitting such judgment, the Secretary of State shall specifically

address the extent to which the foregoing criteria are met. In addition, in the event he considers it warranted, he may address the following additional factors, among others:

"(a) that issuance of the license will materially advance the nonproliferation goals of the United States by encouraging the recipient nation to adhere to the treaty, or to participate in the undertakings contemplated by section 15 of the Nuclear Explosive Proliferation Control Act of 1976;

"(b) that failure to issue the license would otherwise be seriously prejudicial to the nonproliferation objectives of the United States.

"c. In the event the Commission, after receiving from the Secretary of State his judgment that the issuance of the proposed export license will not be inimical to the common defense and security, does not, after due consideration and within a reasonable time, issue the proposed license because it is unable to determine that issuance of the license will not be inimical to the common defense and security, or because it determines that issuance of the license would be inimical to the common defense and security, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. In its decision, which shall not be a final order for the purpose of section 189 b. of

this Act, the Commission shall explain the basis for its finding, and shall include any dissenting views of individual Commissioners. If, after receiving the proposed license, the President determines that withholding the proposed license would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, the President may authorize the proposed export. The President's authorization shall be accompanied by an explanation of the reasons why the export has been authorized.".

SEC. 15. (a) The President shall take immediate steps to assure that a maximum effort is made on behalf of the United States promptly upon enactment of this Act to seek to have all nations, including the nuclear-supplier nations commit themselves to international arrangements and other mutual undertakings under which each nation will be committed to adhere to all of the criteria set forth below in all of its international nuclear trade which could be of significance for nuclear explosive purposes:

(1) assurances shall be received from non-nuclear-weapon states that IAEA safeguards shall be applied with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of that state;

(2) assurances shall be received from non-nuclear-

weapon states that no imported or indigenously developed nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use of any imported or indigenously developed nuclear materials, equipment, or sensitive nuclear technology will be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose;

(3) assurances shall be received that all nations and groups of nations will establish and maintain adequate physical security measures for all of its nuclear activities to insure protection against acts of theft or sabotage;

(4) assurances shall be received from all nations and groups of nations that no nuclear materials, equipment, or sensitive nuclear technology, and no special nuclear material produced through the use of any nuclear materials, equipment, or sensitive nuclear technology, shall be transferred by them to the jurisdiction of any other nation or group of nations unless such nation or group of nations provides the assurances set forth in this subsection;

(5) assurances shall be received from all nations or groups of nations either—

(i) (A) that they will forego development and acquisition of nuclear fuel reprocessing and uranium

enrichment facilities on a national basis, and will place any existing facilities under effective international auspices, management, and inspection;

(B) that no imported nuclear material and no special nuclear material used in or produced through the use of any imported nuclear materials, equipment, or sensitive nuclear technology will be reprocessed by the recipient nation or group of nations, and no fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient nation or group of nations, and such material will be returned to an exporting nation or to a facility under effective international auspices, management, and inspection; and

(C) that no indigenously developed nuclear material or special nuclear material used in or produced through the use of any indigenously developed nuclear materials, equipment, or sensitive nuclear technology will be reprocessed by the recipient nation or group of nations, and no irradiated fuel elements containing such nuclear material which are to be removed from a reactor will be altered in form or content by the recipient nation or group of nations, except in a facility of an exporting nation or a

facility under effective international auspices, management, and inspection; or

(ii) sufficient to permit a judgment on the part of the exporting nation that no nuclear material will be reprocessed and that no irradiated fuel elements containing such material will be altered in form or content by the recipient nation or group of nations except under conditions which will minimize the likelihood of national diversion, theft, or sabotage and which will advance the nonproliferation objective of discouraging the further spread of national reprocessing facilities, including assurances to cooperate in providing nuclear fuel services to nations or groups of nations that agree to forego the development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities on a national basis;

(6) assurances shall be received from all nonnuclear weapon states that they will forego the stockpiling of weapons-grade material on a national basis and will place any existing stockpiles under effective international auspices, management, and inspection.

(b) At such time as any international arrangement or other mutual undertaking contemplated in subsection (a)

has been entered into, the President shall propose such amendments to section 112 of the Atomic Energy Act of 1954, as amended, as appropriate to take into account the contents of such arrangement or undertaking. Upon the effective date of legislation implementing the international arrangements or other mutual undertakings called for in subsection (a), the Commission and the Administration shall apply the criteria set forth in such legislation to all of its approvals of applications for the export for peaceful nuclear uses of source material and special nuclear material, or any production or utilization facilities.

SEC. 16. Section 109 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 109. COMPONENT AND OTHER PARTS OF FACILITIES.—

"a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not be inimical to the common defense and security.

"b. The Commission is authorized and directed to determine which component parts as defined in subsection 11 v. or 11 cc. of the Atomic Energy Act of 1954, as amended,

that are intended for end-use in a production or utilization facility, are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in subsection 112 (c), no such component, which is so determined by the Commission, shall be exported unless the Commission issues a general or specific license for its export, after determining in writing that the issuance of each such general or specific license will not be inimical to the common defense and security.

"c. The Commission, within not more than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Energy Research and Development Administration, and the Arms Control and Disarmament Agency.

"d. The Commission shall not issue an export license under the authority of subsection (a) if it is advised by the executive branch, in accordance with the procedures established under subsection 111 b., that the export would be inimical to the common defense and security of the United States.

"e. The President, within not more than one hundred and twenty days after the date of the enactment of this Act,

shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultation, as required, by the Department of Commerce with the Department of State, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Energy Research and Development Administration.

CONGRESSIONAL OVERSIGHT OF NUCLEAR EXPORT ACTIVITIES

SEC. 17. (a) The President shall review all activities of Government departments and agencies relating to preventing the proliferation of nuclear explosive devices and shall make an annual report to Congress within not more than one year after the date of enactment of this Act and annually in January of each year thereafter on the Government's effort to prevent such proliferation. This report is to include but not be limited to—

(1) a description of the progress made toward—

(i) negotiating the international arrangements or other mutual undertakings contemplated in sections 5 and 15 of this Act;

(ii) promoting adherence to the Treaty on the

Non-Proliferation of Nuclear Weapons, and discouraging or prohibiting nuclear exports to nations that are not parties to the treaty or have not entered into comparable agreements with respect to safeguards and forsaken the development of any nuclear explosive devices;

(iii) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 5 of this Act; and

(iv) accomplishing the initiatives contemplated in section 5 of this Act;

(2) an analysis of each civil agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act, including a discussion of the scope of the requirements and obligations relating to the safeguards and other controls contained therein; and

(3) an assessment of the impact of the progress which has been made on the nonproliferation goals of the United States; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the nonproliferation goals of the United States.

(b) The annual reports to the Congress by the Nuclear Regulatory Commission and the Energy Research and Development Administration which are otherwise required by law shall also include recommendations and accomplish-

ments regarding the policies and actions of the United States to prevent the proliferation of nuclear explosive devices which are the statutory responsibility of those agencies. The Administration's report shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques for the proliferation of nuclear explosive devices. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Joint Committee on Atomic Energy and a summary unclassified version.

(c) The reporting requirements of this section are in addition to and not in lieu of any other reporting requirements under applicable law.

(d) The Department of State, the Arms Control and Disarmament Agency, and the Department of Commerce shall keep the Joint Committee, the Committee of Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives, fully and currently informed with respect to their activities to effectuate the purposes and policies of this Act and to otherwise prevent the proliferation of nuclear explosive devices.

(e) Any classified portions of the report required by subsection (a) shall be submitted to the Joint Committee on Atomic Energy, the Senate Foreign Relations Committee, and the House International Relations Committee.

AUTHORIZATIONS

SEC. 18. (a) There is hereby authorized to be appropriated $2,000,000 for contributions to the International Atomic Energy Agency toward its safeguards activities, which amount is authorized to remain available until expended: *Provided*, That such sums shall be in addition to any other contribution to the International Atomic Energy Agency by the United States pursuant to any other provision of law.

(b) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission an additional sum of $2,500,000 for fiscal year 1977, which sum to remain available until expended, for the purpose of exercising its export licensing responsibilities pursuant to this Act.

DEFINITIONS

SEC. 19. As used in this Act:

(a) The term "nuclear fuel services" means uranium enrichment services, nuclear fuel fabrication services or other services relating to the use of source or special nuclear material as fuel in a reactor.

(b) The term "nuclear materials and equipment" means source material, special nuclear material, production facilities, and utilization facilities, or export items designated by the President pursuant to subsection 109 e. of the Atomic Energy Act of 1954, as amended.

(c) The term "physical security measures" means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

(d) The term "safeguards" means a system of controls designed to insure that any materials, equipment, components, or substances subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

(e) The term "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facilty or important component part thereof, or in a nuclear-related substance) which is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water.

(f) All other terms used in this Act shall have the meanings ascribed to them by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Treaty on the Non-Proliferation of Nuclear Weapons.

SAVINGS PROVISION

SEC. 20. All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or

allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency allowed to become effective in the exercise of functions which are affected by this Act, or (ii) any court of competent jurisdiction; and,

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

APPENDIX 2

CONGRESS OF THE UNITED STATES
Joint Committee on Atomic Energy

August 24, 1976

MEMORANDUM

TO: All Committee Members

FROM: George F. Murphy, Jr., Executive Director

SUBJECT: Proposed Nuclear Explosive Proliferation Control Act of 1976

The Committee has until August 31 to act on S. 1439, the proposed "Export Reorganization Act of 1975", which was jointly referred to it and to the Committee on Foreign Relations on May 13, 1976.

The Committee held hearings on S. 1439, at which the Executive Branch testified vigorously in opposition to the bill.

As a result of the many issues raised by S. 1439, Chairman Pastore directed the staff to draft a substitute bill. Such a bill was distributed to concerned Executive Branch agencies and departments after the Committee's July 28, 1976, hearing on S. 1439. Thereafter the Committee staff met with representatives of the Executive Branch and staff members of the Senate Government Operations and Foreign Relations Committees to attempt to reach agreement on an acceptable bill. As a result of that informal process, the approach of the original draft substitute bill has remained intact. A copy of the final staff version of the recommended substitute bill is enclosed.

The draft substitute bill differs substantially in its approach from that of S. 1439. S. 1439 purported to solve proliferation problems by a massive reorganization of the Executive Branch which itself would create additional problems without going to the root of the cause of known problems. The draft substitute bill proposes no reorganization of the Executive Branch functions relating to the control of nuclear exports. Instead, the major thrust of the bill is that it states a comprehensive proliferation control policy of this government, the essential ingredients of which are:

1. A statement of the criteria which this government will apply now in its approval of nuclear exports which could be of significance for nuclear explosive purposes.

2. A statement of national policy that the United States will offer agreed-to nuclear fuel services to countries at a price and on terms and conditions which are non-discriminatory provided that the recipient country commits itself to United States' non-proliferation policy objectives, the essence of which is to prevent the spread of sensitive nuclear technology which could be used to produce nuclear material for nuclear explosive purposes.

3. A comprehensive statement of United States initiatives, the purpose of which is to stimulate vigorous leadership on the part of the government to:

   a. win the approval of other nuclear supplier nations to commit themselves to agreed courses of action regarding the control of nuclear exports to avoid proliferation of nuclear explosives;

   b. attempt to establish regimes under international auspices for the control of sensitive nuclear technology (that is, enrichment and reprocessing facilities);

   c. strengthen and make more effective the International Atomic Energy Agency; and

   d. attempt to have international agreements reached on important matters, such as physical security, accountability, and sanctions which should be applied to anyone who diverts nuclear material from peaceful purposes.

4. Strengthen the provisions in Section 123 of the Atomic Energy Act for agreements for cooperation.

5. Limit the authority of ERDA under the Atomic Energy Act to export, by unilateral action and without any export license, nuclear material and technology which could be of significance for nuclear explosive purposes.

6. Limit the authority of the Nuclear Regulatory Commission to delegate its licensing responsibility for nuclear components to the Department of Commerce. The Atomic Energy Act would be revised to require that the NRC license all exports, including heavy water and computers, the end use of which is for a nuclear production or utilization facility. The Commerce Department would be required to keep up-to-date a list of all items and substances which could be of significance from the standpoint of enhancing a nation's capability to produce nuclear explosives.

o

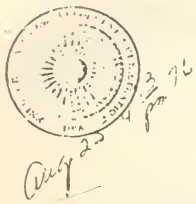
7. Provision for a reporting system under which the Joint Committee on Atomic Energy would be fully and currently informed of the progress which is being made to implement the national policy expressed in the proposed Nuclear Proliferation Control Act of 1976.

In view of the fact that the Committee must act on this matter prior to August 31, the Chairman has directed that a meeting be scheduled on this subject at 1:30 p.m. on Thursday, August 26.

If you have any questions or need additional information, please do not hesitate to contact me.

Attachment:
As Stated

APPENDIX 3



UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

AUG 2 6 1976

Honorable John O. Pastore
Chairman, Joint Committee
on Atomic Energy
Congress of the United States

Dear Mr. Chairman:

In my letter of August 25, 1976, we provided comments on the Committee's August 19 draft "Nuclear Proliferation Control Act of 1976." We would like to take this opportunity to comment upon the Committee's August 24, 1976, draft "Nuclear Explosive Control Act of 1976.

The August 24, 1976 draft bill incorporates a number of drafting improvements. In particular, Section 4. of the Committee's August 24, 1976 draft bill incorporates revisions to the nuclear "fuel assurance" provisions of the earlier draft which eliminates many of the concerns which we expressed in our August 25 letter. In our judgment, however, the August 24 draft bill does not represent a significant improvement over the earlier draft, since it fails to meet the majority of the concerns which we have previously expressed. In particular, the bill would still appear to establish increasingly rigid export licensing criteria which, if enacted, would result in a de facto moratorium on U.S. exports. (In this connection, we understand that there is intended to be included as part of the August 24 draft new Sections 15(a)(b) and (c), which would further amend those licensing criteria after 18 months. As I indicated in our comments on a similar provision in my letter of August 25, these increased criteria might well result in the withdrawal of the U.S. as a nuclear supplier).

Imposition of the proposed criteria in Section 14 of the August 24 draft -- which would be effective immediately -- as statutory licensing conditions would make it impossible to license the export of nuclear reactors or fuel under many current agreements for cooperation. Taking only the first five criteria, which of course would apply to future exports under existing agreements, it would appear that exports could not be licensed under at least twelve current agreements for cooperation. Of these twelve agreements, eight might be said to meet each of the first

five criteria to some degree, but not entirely. Four agreements clearly do not meet one or more of these proposed criteria: these are the agreements with Canada, the International Atomic Energy Agency and both agreements with Euratom (under which we cooperate with member states of the European Communities). Clearly, a regime under which cooperation under these agreements is precluded should not be the centerpiece of U.S. nonproliferation policy.

The sixth immediately-effective criterion, concerning replicated facilities, would not be met in any of our current or proposed new agreements for cooperation.

Export criteria which substantially hinder our ability to act as a reliable nuclear supplier will serve to call into question the fundamental bases of the Nonproliferation Treaty and the cooperative international nuclear supplier arrangements which have evolved over the past few years. Given the profound consequences of this legislation, we urge that the Committee schedule hearings which will allow it to consider a wide range of views, particularly concerning the likely impact of this legislation on the future of the United States as an influential member of the world nuclear community.

I hope that these comments are of assistance to the Committee.

Sincerely,

Robert C. Seamans, Jr.

Robert C. Seamans, Jr.
Administrator

APPENDIX 4

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

SEP 1 3 1976

Honorable John O. Pastore, Chairman
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Chairman:

We are pleased to continue our cooperation with the Joint Committee toward our mutual objective of sound and effective legislation to prevent the proliferation of nuclear weapons and explosive devices by providing you with our comments on H.R. 15419. Our comments concern a number of important policy issues and suggestions for improvement, which, in our judgment, should be considered in connection with the Committee's action on H.R. 15419.

As you know, our respective staffs have been meeting over the last several days with respect to a number of technical and perfecting amendments to better achieve the purposes and objectives of H.R. 15419. There are a number of these amendments; however, they are designed to tighten the language of the bill, and to integrate it more closely with the Atomic Energy Act of 1954, as amended. I believe these changes strengthen the bill by uncovering a number of technical ambiguities, and I urge the Joint Committee to act favorably upon them.

With respect to matters of policy significance, we have the following comments and suggestions for improvement:

1. A credible supply assurance

As I have previously indicated, nonproliferation legislation has little chance of success unless other nations perceive that the United States has committed itself to be a reliable and credible supplier of nuclear fuel. Our "leverage" in obtaining from other nations the assurances necessary to advance nonproliferation goals depends directly on our continued status as a reliable nuclear partner. Although certain general assurances are set out in section 4 of the bill, we feel that much could be gained by a clear statement of U.S. policy that nuclear exports will in fact be authorized when all applicable statutory

requirements are met. In this regard, recent actions by several nations with which we have been cooperating under existing Agreements for Cooperation indicate that these nations are now questioning the reliability of the United States as a supplier of nuclear fuel and reactors. A statement of Congressional policy that exports will be authorized upon satisfaction of the statutory requirements would help to answer these kinds of misgivings. Also important in this regard is a policy statement that the necessary export licensing actions will proceed in a timely manner.

2. Rigorous reprocessing controls

The bill's provisions regarding the conditions under which reprocessing of spent nuclear fuel should occur (especially sections 5 and 15) are of critical importance. By discouraging further national reprocessing facilities, and by encouraging any needed reprocessing ventures to be established under appropriate international auspices, H.R. 15419 seeks to achieve sound nonproliferation objectives -- goals which we all share. However, sufficient flexibility must also be provided to recognize that situations may exist involving nations which have reprocessing capabilities but are nonetheless clearly committed to act in a responsible fashion which will advance U.S. nonproliferation goals. These nations may be nonnuclear weapons states (within the meaning of the NPT), or weapons states which are prepared to use their capability in this regard to serve as reprocessors for other nations, and thereby reduce the further development of such national facilities. We must also be prepared to turn existing reprocessing capabilities to the task of preventing the development of additional national reprocessing facilities in nations which do not currently possess this capability, and the bill should take this into account.

3. Nuclear Proliferation Assessment Statement

Another troublesome aspect of H.R. 15419 is its requirement that, in a number of specified situations, the Arms Control and Disarmament Agency prepare a Nuclear Proliferation Assessment Statement. We fully support the concept of mandatory and disciplined consideration of the nonproliferation ramifications of major international nuclear transactions. At present, under Executive Order 11902, issued on February 2, 1976, the Secretary of State is directed to specifically address the implications on the common defense and security of certain nuclear exports. Building on current practice, H.R. 15419 could require that the Secretary of

State formally evaluate each proposed export transaction to determine whether the statutory nonproliferation principles of H.R. 15419 are met; this evaluation could also include other factors such as whether the export will advance our nonproliferation goals by encouraging adherence to the Nonproliferation Treaty, or whether failure to issue a license could seriously prejudice our nonproliferation objectives.

Such a procedure would be preferable to an Assessment Statement mechanism which appears to be patterned after the impact statement provisions of the National Environmental Policy Act. In establishing an Assessment Statement requirement, H.R. 15419 creates the risk that some of the procedures and duties which the courts have found inherent in NEPA would be grafted onto the Nuclear Proliferation Assessment Statement provisions. Controversy or protracted delay regarding such statements could cripple our nonproliferation efforts. This is particularly the case since the bill requires an "Assessment Statement" in a variety of situations, including component licensing cases and individual exports under an existing Agreement for Cooperation.

In addition to the problems noted above, H.R. 15419 requires that any ACDA Statement provided to the President with respect to an Agreement for Cooperation also be provided to the Congress (Section 9), together with the views and recommendations provided to the President by Executive Branch officials such as the Secretary of State and the Administrator of Energy Research and Development. In this respect, the bill would infringe on the right and ability of the President to receive the judgment of Executive Branch agencies and entities for which he is ultimately responsible.

Review and reports by ACDA on the nonproliferation ramificatons of significant matters need not be sacrificed, however, to avoid the above-mentioned problems. The benefits of ACDA's expertise could be fully realized by provisions requiring other Executive Agencies to consult with ACDA on significant export transactions. If the President decides to submit an Agreement for Cooperation to the Congress, or if Congress otherwise reviews an export transaction, ACDA can of course be called to testify with respect to the nonproliferation aspects.

If the Assessment Statement requirements are retained in H.R. 15419, we think it essential that the bill retain the provision making clear that judicial review is not available regarding the preparation or adequacy

of Assessment Statements. Also, the legislative history should make clear that, in establishing Nuclear Proliferation Assessment Statements, Congress does not intend to create a NEPA-like process.

4. Assuring Exports Crucial to National Nonproliferation Objectives

Serious setbacks to our nonproliferation objectives arise if the President lacks flexibility to authorize a nuclear export when the withholding thereof would seriously prejudice those objectives or otherwise jeopardize the common defense and security. We believe it possible to achieve the necessary flexibility in a way which would not impair the NRC's duties as an independent regulatory agency. We recognize that section 112.c. seeks to provide a degree of flexibility by allowing the President to authorize exports in critical cases notwithstanding the NRC's independent judgment. This authority should extend to instances in which there is a determination that non-issuance of a license would be prejudicial to the common defense and security. Moreover, the legislation should cover cases where the NRC is unable to reach a decision that issuance of an export license would not be inimical to the common defense and security. Any such procedure must, of course, maintain the complete independence of the NRC as a regulatory body, and preserve their primacy in areas of particular NRC expertise, such as matters of health and safety.

With these principles in mind, we would suggest consideration of provisions which would direct NRC, after thoroughly considering a license and determining that it should not issue for common defense and security reasons, or that it is unable to determine that issuance of the license would not be inimical to publish its decision and then submit it to the President. In those instances where the President determines that the export should be approved for national security reasons crucial to U.S. nonproliferation objectives, he could authorize the export.

5. Congressional oversight

Annual reports to Congress by the President (required by section 17 of the bill) should serve to inform the Congress and the nation of progress in achieving the objectives of the Act. However, subsection 17(a)(3), which calls for a determination as to which agreements for cooperation should be modified, could unnecessarily antagonize other nations or jeopardize legitimate operations under existing agreements. Unilateral

modification of existing Agreements for Cooperation by U.S. legislative directive would likely result in charges of bad faith on the part of the United States. The President should be given the opportunity to seek revisions of existing agreements through the accepted diplomatic process without making the specific terms of these revisions binding in legislation.

* * *

Two additional points deserve mention. At several places in the bill, a distinction is drawn between "nonnuclear-supplier nations," and "nuclear-supplier nations." Since these concepts are not firm (and it can be expected that the numbers of "nuclear-suppliers" may increase over time), we do not believe that they can realistically be used as a legislative mechanism. It would be possible, however, to distinguish, where necessary, between "nuclear-weapons states" and "nonnuclear-weapons states." Such a distinction is followed in the Nonproliferation Treaty. Further, a distinction case in these terms would avoid charges of discrimination likely to be leveled by "nonnuclear-supplier nations."

A second point concerns use of the phrase "international arrangements." As defined in the Atomic Energy Act, that term does not include Agreements for Cooperation or other mutual undertakings which are not treaties or other agreements approved by the Congress. As written, the bill would thus severely limit the types of international understandings which would serve as the basis for establishing future licensing principles to be applied by the NRC.

We hope the foregoing discussion will be of assistance to the Committee.

Sincerely,

Robert C. Seamans, Jr.
Administrator

Tab "1"

Credible Supply Assurance

Page 6, add the following after line 2:

"The United States, as a matter of national policy, shall issue export licenses for, or otherwise authorize export of nuclear materials and equipment, upon a determination that all the applicable statutory requirements are met."

Tab "2"

Rigorous Reprocessing Controls

1. Page 18, add after line 23:

"[,] , or unless in the judgment of the United States, such reprocessing or alteration will be under other conditions which will advance the United States nonproliferation objective of discouraging the further spread of national reprocessing facilities."

2. Page 22, delete lines 3-24; Page 27, delete lines 1-8; insert following in lieu thereof:

"(5) assurances shall be received from all nations or groups of nations either --

(i)(A) that they will forego development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities on a national basis, and will place any existing facilities under effective international auspices, management, and inspection;

(B) that no imported nuclear material and no special nuclear material used in or produced through the use of any imported nuclear materials, equipment or sensitive nuclear technology will be reprocessed by the recipient nation or group of nations, and no fuel elements containing such material which are to be removed from a reactor will be altered in form or content by the recipient nation or group of nations, and such material will be returned to an exporting nation or to a facility under effective international auspices, management, and inspection; and

(C) that no indigeneously developed nuclear material or special nuclear material used in or produced through the use of any indigenously

developed nuclear materials, equipment or sensitive nuclear technology will be reprocessed by the recipient nation or group of nations, and no irradiated fuel elements containing such nuclear material which are to be removed from a reactor will be altered on form or content by the recipient nation or group of nations, except in a facility of an exporting nation or a facility under effective international auspices, management, and inspection; or

(ii) sufficient to permit a judgment on the part of the exporting nation that no nuclear material will be reprocessed and that no irradiated fuel elements containing such material will be altered in form or content by the recipient nation or group of nations except under conditions which will minimize the likelihood of national diversion, theft or sabotage and which will advance the nonproliferation objective of discouraging the further spread of national reprocessing facilities, including assurances to cooperate in providing nuclear fuel services to nations or group of nations that agree to forego the development and acquisition of nuclear fuel reprocessing and uranium enrichment facilities on a national basis.

(6) assurances shall be received from all non-nuclear weapon states that they will forego the stockpiling of weapons-grade material on a national basis and will place any existing stockpiles under effective international auspices, management and inspection.

Tab "3"

Nuclear Proliferation Assessment Statements

1. Page 11, delete line 17; and delete "ment" on line 18.

2. Page 12, delete lines 6-10 and insert

"Sec. 9. The amendments to Sec. 123.a. of the Atomic Energy Act of 1954, as amended, made by Section 8. of this Act shall not apply to agreements for cooperation entered into prior to the effective date of this Act."

3. Page 13, line 9 delete "which shall"; line 10-11 delete; line 12 delete all before "to".

4. Page 16, lines 6-7, delete "a Nuclear Proliferation Assessment Statement from".

5. Page 16, line 23-24; age 17, lines 1-2, retain only if a Nonproliferation Statement is required in the Bill.

6. Page 24, line 24, put a period after "Agency" and delete balance of line; line 25, delete.

7. Page 25, delete lines 1-2.

Tab "4"

Assuring Exports Crucial to National Nonproliferation Objectives

1. Page 14, line 10 after "mission" insert :

"or under an authorization granted by the President in accordance with Section 112".

2. Page 19, delete line 25; page 20, delete lines 1-16; insert in lieu thereof:

"In submitting such judgment, the Secretary of State shall specifically address the extent to which the foregoing criteria are met. In addition, in the event he considers it warranted, he may address the following additional factors, among others:

(a) that issuance of the license will materially advance the nonproliferation goals of the United States by encouraging the recipient nation to adhere to the treaty, or to participate in the undertakings contemplated by Section 15 of the Nuclear Explosive Proliferation Control Act of 1976;

(b) that failure to issue the license would otherwise be seriously prejudicial to the nonproliferation objectives of the United States.

c. In the event the Commission, after receiving from the Secretary of State his judgment that the issuance of the proposed export license will not be inimical to the common defense and security, does not, after due consideration and within a reasonable time, issue the proposed license because it is unable to determine that issuance of the license will not be inimical to the common defense and security, or because it determines that issuance of the license would be inimical to the commmon defense and security, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President.

In its decision, which shall not be a final order for the purpose of Section 189b. of this Act, the Commission shall explain the basis for its finding, and shall include any dissenting views of individual Commissioners. If, after receiving the proposed license, the President determines that withholding the proposed license would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, the President may authorize the proposed export. The President's authorization shall be accompanied by an explanation of the reasons why the export has been authorized."

Tab "5"

Congressional Oversight

1. Page 27, delete lines 12-24; page 28, delete lines 1-3; insert following in lieu thereof:

"(3) as assessment of the impact of the progress which has been made on the nonproliferation goals of the United States; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the nonproliferation goals of the United States."

H.R. 15419
Technical Amendments

Page 2, line 14 insert "sensitive nuclear" before "technology".

Page 4, lines 3 delete "criteria" and insert "principles".

Page 4, lines 13 delete "international arrangements" and insert "mutual undertakings".

Page 4, lines 23 and 24 and Page 5, line 1 delete "its agreement with a nuclear supplier nation, its agreement to adhere to international proliferation controls and supervision" and insert "any material obligation with respect to the peaceful use of nuclear materials, equipment or sensitive nuclear technology".

Page 5, lines 20 delete "sub-".

Page 5, line 21 delete "sections" and insert "section," delete "m. and v.".

Page 6, lines 1 and 2 delete "with all interested nations".

Page 6, lines 6 and 7 delete "binding international arrangements which shall" and insert "mutual undertakings to".

Page 6, line 12 delete "criteria" and insert "principles".

Page 6, line 20 delete "international arrangement" and insert "mutual undertaking".

Page 7, line 7 delete "; and" and insert ", or any material undertaking with respect to the peaceful use of nuclear materials, equipment or sensitive nuclear technology; and".

Page 7, line 17 delete "agreed to" and insert "adopted".

Page 7, line 17 delete "major".

Page 7, line 18 delete "suppliers;" and insert "supplier nations;".

Page 8, line 1 delete "and" wherever it appears, and insert a comma after "resources".

Page 8, line 2 delete "Specific initiatives the United States shall take are-" and insert ", and by-".

Page 8, line 4 delete "continue" and insert "continuing".

Page 8, line 10 delete "assure" and insert "assuring".

Page 8, line 18 delete "improve" and insert "improving"; delete "accountability" and insert "safeguards".

Page 9, line 3 delete "assure" and insert "assuring".

Page 9, line 9 insert "consistent with the policies of this Act," after "(d)".

Page 9, line 10 delete "either".

Page 9, lines 11 and 12 delete "or under equivalent effective international safeguards controls".

Page 9, line 13 delete "a number of".

Page 9, after line 14 add "(e) to seek renegotiation of agreements for cooperation where warranted to promote United States nonproliferation interests".

Page 9, line 15 delete "shall" and insert "is requested to".

Page 9, line 16 delete "initiates" and insert "initiatives".

Page 10, lines 3 and 4 delete "production and utilization facilities, components, or materials" and insert "nuclear materials or equipment".

Page 10, line 22 delete "a" after "(5)" and insert "except in the case of agreements for cooperation arranged pursuant to subsection 91c., 144b. or 144c., a".

Page 11, line 15 delete "and findings".

Page 13, line 17 delete "source or special nuclear material" and insert "nuclear materials or equipment;".

Page 13, line 18 insert "nuclear" before "materials".

Page 13, line 18 and 19 delete "facilities, components, or substances" and insert "or equipment".

Page 13, lines 20 and 21 delete "source or special nuclear material" and insert "nuclear materials or equipment.".

Page 13, line 25 insert "nuclear" before "materials".

Page 13, line 25, and Page 14, line 1 delete "facilities, components, or substances" and insert "or equipment".

Page 15, line 18 insert "or" before "any".

Page 15, lines 19 and 20 delete "or any component which would be of significance for nuclear explosive purposes,".

Page 16, line 6 insert "the Energy Research and Development Administration, the Department of Commerce, and" after "including".

Page 17, line 3 delete "12" and insert "112".

Page 17, line 5 delete "criteria" and insert "principles".

Page 17, line 5 delete "sub" and "(a)".

Page 17, lines 6 and 7 delete "by binding international arrangements".

Page 17, line 12 insert "sensitive nuclear" before "technology"; delete "component, or substance".

Page 17, lines 14 and 15 delete "Assurance that IAEA safeguards or their equivalent" and insert "Safeguards as required by Article III (2) of the Treaty".

Page 17, line 16 delete "facility, component, or substance," and insert "or equipment".

Page 17, line 19 delete "Assurance that no", and insert "No"; delete "facility," and insert "equipment or".

Page 17, lines 20 insert "sensitive nuclear" before "technology" and delete "component, or substance,".

Page 17, line 21 insert "nuclear" after "such".

Page 17, line 22 delete "terial, facility, technology, component or substance", and insert "terials, equipment or sensitive nuclear technology".

Page 18, line 1 delete "Assurance that adequate" and insert "Adequate".

Page 18, line 2 delete "imposed and".

Page 18, line 3 delete and insert "to such nuclear material or equipment and".

Page 18, line 6 delete and insert "(4) No such nuclear materials,".

Page 18, line 7 delete and insert "equipment or sensitive nuclear technology, and no special".

Page 18, line 10 delete "unless the prior approval of" and insert "except under conditions acceptable to".

Page 18, line 11 insert a period after "States"; and delete "is obtained for such retransfer.".

Page 18, lines 14 and 15 delete and insert "retransfer agrees that it shall be subject to the conditions stated in subparagraphs (1), (2), (3), and (5).".

Page 18, line 16 delete and insert "(5) No such nuclear material, and no".

Page 18, line 18 delete and insert "use of such nuclear material or equipment".

Page 18, line 20 delete "will be".

Page 18, line 21 delete "and" and insert "shall be".

Page 18, lines 24 and 25 delete "Where appropriate, assurance that the recipient country will apply the", and insert "The".

Page 18, line 25 insert "shall be applied" after "conditions".

Page 19, line 1 delete "such" and insert "nuclear"; delete "facility" and insert "equipment".

Page 19, lines 2 and 3 delete "by or through the use of any such material, facility, technology, component, or substance" and insert "in the recipient nation or group of nations by or through the use of any exported sensitive nuclear technology".

Page 19, line 5 delete "such" and insert "nuclear"; delete "material" and insert "materials or equipment".

Page 19, lines 5 through 7 delete "facilities, or components, or give its approval for the export of substances covered by subsection a. of this section".

Page 19, line 13 delete "others" and insert "other".

Page 19, lines 13 through 15 delete "which the Commission or the Administration, as the case may be, deems necessary to meet the".

Page 19, line 17 delete "government of the"; delete "country" and insert "nation or group of nations".

Page 20, line 17 delete "directed" and insert "requested and authorized".

Page 20, line 20 insert "seek to" before "have"; delete "of" and insert "nations, including"; delete "other".

Page 20, line 21 delete "binding international arrangements" and insert "mutual undertakings".

Page 20, line 22 delete "supplier".

Page 20, line 23 delete "their" and insert "its".

Page 21, line 2 delete "Agency" and insert "IAEA".

Page 21, line 3 insert "peaceful" before "nuclear".

Page 21, line 7 delete and insert "oped nuclear materials, equipment or sensitive nuclear technology,".

Page 21, line 8 delete "stance,".

Page 21, line 10 delete and insert "nuclear materials, equipment or sensitive nuclear technology".

Page 21, line 12 insert "on" before "or".

Page 21, line 14 delete "the recipient" and insert "all nations and groups of nations".

Page 21, line 15 delete "country"; delete "impose" and insert "establish"; insert "adequate" before "physical".

Page 21, line 18 insert "from all nations and groups of nations" before "that"; delete "imported".

Page 21, line 19 delete "or indigenously developed" and insert "nuclear"; add "s" to "material"; delete "facility," and insert "equipment or sensitive nuclear".

Page 21, line 20 delete "component, or substance,".

Page 21, line 21 delete "imported or indige-".

Page 21, line 22 delete and insert "nuclear materials, equipment or sensitive nuclear technology,".

Page 21, line 23 delete "nent, or substance"; insert "by them" before "to".

Page 22, line 1 delete "agree to apply the controls" and insert "provides the assurances ".

Page 23, line 9 after "(b)" insert "At such time as any mutual undertaking contemplated in subsection (a) has been entered into, the President shall propose such amendments to section 112 of the Atomic Energy Act of 1954, as amended, as appropriate to take into account the contents of such undertaking.".

Page 23, lines 9 and 10 delete "such international arrangements" and insert "legislation implementing the mutual undertakings"; insert "and the Administration" after "Commission ".

Page 23, line 11 delete "subsection (a)" and insert "such legislation ".

Page 23, line 14 insert period after "facilities" and delete "or any technology.".

Page 23, lines 15 and 16 delete.

Page 24, lines 2 and 3 delete "constitute an unreasonable risk to ", and insert "be inimical to ".

Page 24, line 7 delete "and which other items or substances ".

Page 24, line 10 delete "No" and insert "Except as provided in subsection 112(c), no ".

Page 24, line 11 delete "substance, or item ".

Page 24, line 15 delete "constitute an unreasonable risk" and insert "be inimical ".

Page 25, line 20 delete "The Com-".

Page 25, lines 21 through 25 delete.

Page 26, line 12 delete "achieving adoption and adherence to" and insert "negotiating ".

Page 26, line 13 delete "international arrangements" and insert "mutual undertakings ".

Page 26, line 14 delete and insert "tions 5 and 15 of this Act;".

Page 26, line 20 delete "forsaking" and insert "forsaken ".

Page 27, line 3 insert "civil" before "agreement."

Page 27, lines 7 through 11 delete and insert "other controls contained therein; and ".

Page 29 after line 2 insert "(e) Any classified portions of the report required by subsection (a) shall be submitted to the Joint Committee on Atomic Energy, the Senate Foreign Relations Committee, and the House International Relations Committee."

Page 30, line 2 delete the period and insert ", or export items designated by the President pursuant to subsection 109.e. of the Atomic Energy Act of 1954, as amended."

Page 30, line 14 delete "the transfer ;".

Page 30, lines 15 through 17 delete and insert "which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water."

Page 30, lines 18 through 25 delete.

Page 31, lines 1 through 7 delete.

Page 31, line 8 delete "(i)" and insert "(f)".

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